Mr Justice Clifford

SUPREME COURT OF THE UNITED STATES.

No. ~~185.~~ ~~1861~~ 1659.

RICHARD GREGG, PLAINTIFF IN ERROR,

v.

WILLIAM P. BRYANT.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

G. S. GIDEON, Printer, No. 511 Ninth Street, Washington, D. C.

1163

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No. 205.

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v.

WILLIAM P. BRYANT.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

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United States of America, Northern District of Illinois, *ss.*

Pleas in the Circuit Court of the United States of America for the Northern District of Illinois, held at the city of Chicago, in said northern district of Illinois, before the Hon. Thomas Drummond, judge of the District Court of the United States for said northern district of Illinois, and (in the absence pro tempore of the Hon. John McLean, one of the justices of the Supreme Court of the United States) sole judge of said Circuit Court, on Saturday, the 10th day of October, in the October adjourned term of said court, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-second year.

WILLIAM P. BRYANT
v.
RICHARD GREGG. } In Ejectment.

Be it remembered, that heretofore, to wit, on the eighteenth day of April, in the year of our Lord one thousand eight hundred and fifty-four, in the April term, A.D. 1854, of the Circuit Court of the United States for the District of Illinois, came the said William P. Bryant, plaintiff in this cause, by N. H. Purple, his attorney, and filed in open court his declaration against the said Richard Gregg, defendant in this suit, in the plea aforesaid, together with a notice thereto attached, and also an affidavit of service thereof upon the said defendant, and also at the same time filed his bond for costs in the above-entitled cause, which said bond, declaration, notice, and affidavit are in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Illinois, April Term, A.D. 1854.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

I do hereby enter myself security for costs in this cause, and acknowledge myself bound to pay, or cause to be paid, all costs which shall accrue in this action, either to the opposite party or to any of the officers of this court, in pursuance of the laws of this State or the United States.

Dated this 12th day of January, A.D. 1854.

N. H. PURPLE.

Filed April 18, 1854.

WM. POPE,
Clerk.

In the Circuit Court of the United States for the District of Illinois, April Term, 1854. At Chicago.

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

William P. Bryant, who is a citizen of the State of Indiana, plaintiff in this suit, complains of Richard Gregg, who is a citizen of the State of Illinois, defendants in this suit, for that whereas, on the 10th day of January, A.D. 1854, at the State and District aforesaid, he, said plaintiff, was possessed of the following described real estate, to wit, the lot containing twenty-seven thousand four hundred and forty-nine square feet and seven-hundredths of a square foot, surveyed and designated as covered by claim number twenty-nine in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey approved 1st September, 1840, by the surveyor of the public lands in the State of Illinois and Missouri, as, by reference to said survey and the plat thereof, will fully appear.

And for that whereas also, on the 10th day of January, A.D. 1854, at the State and district aforesaid, he the said plaintiff was possessed of the following described real estate, to wit:

The equal undivided one-fourth part of the lot containing twenty-seven thousand four hundred and forty-nine square feet and seven-hundredths of a square foot, surveyed and designated as covered by claim number twenty-nine, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey approved 1st September, 1840, by the surveyor of the public lands in the State of Illinois and Missouri, as, by reference to said survey and the plat thereof, will fully appear; the title to which he claims in fee. And the said plaintiff being so possessed thereof, the said defendant, on the 11th day of January, A.D. 1854, entered into said premises, and unlawfully withholds from the plaintiff the possession thereof, to the damage of the said plaintiff one hundred dollars, and therefore he brings suit, &c. And the said plaintiff avers that he is a citizen of the State of Indiana, and that said defendant is a citizen of the State of Illinois, and that the value of the land in controversy in this suit, exclusive of costs, exceeds the sum of five hundred dollars.

N. H. PURPLE,
Plaintiff's Attorney.

Mr. RICHARD GREGG:

You are notified, that on the first day of the next term of the United States Circuit Court, to be holden in and for the State and district of Illinois, at Chicago, or as soon thereafter as counsel can be heard, the foregoing declaration in ejectment will be filed, and thereupon a rule will be entered, requiring you to appear and plead thereto within twenty days after the entry of such rule; and that, if you neglect so to appear and plead, judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

January 12th, 1854.

N. H. PURPLE,
Plaintiff's Attorney.

State of Illinois, Peoria County, *ss.*

Mark M. Aikin, being duly sworn, says that he served the foregoing declaration and notice on the defendant within named, by giving Richard Gregg a true copy of the same, this 12th day of January, A.D. 1854.

MARK M. AIKIN.

Subscribed and sworn to, before me, this 12th day of January, A.D. 1854.

A. H. PURPLE,
Notary Public, Peoria County, Illinois.

Filed April 18, 1854.

WM. POPE,
Clerk.

Whereupon, on the said 18th day of April, in the year last aforesaid, the following rule was entered upon the record of the proceedings of said court in said cause, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

On filing the declaration in ejectment in this cause, and the notice in writing thereto subjoined, directed to the defendant, and on reading and filing an affidavit of due service of a true copy of the declaration and notice upon the defendant, it is ordered, that the defendant appear and plead in twenty days, or that his default be entered.

And afterwards, to wit, on the eleventh day of October, in the year last aforesaid, came the said Richard Gregg, defendant in this suit, by Charles Ballance, Esq., his attorney, and filed in said court his plea in the above-entitled cause, which said plea is in the words and figures following, to wit:

United States of America, State and District of Illinois. In the Circuit Court of the October Term, 1854.

WILLIAM P. BRYANT
v.
RICHARD GREGG. } In Ejectment.

Said defendant comes and defends the aforesaid injury when, &c., and say he is not guilty of the trespass and ejectment in said declaration alleged, in manner and form as the same is therein set forth and charged against him, and of this he puts himself upon the country, &c.

C. BALLANCE,
For Defendant.

Filed, October 11th, 1854.

WM. POPE,
Clerk.

On the said 11th day of October, in the year last aforesaid, the following proceedings were had in said cause, and entered of record, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

This day comes the plaintiff, by his attorney, and enters his motion for leave to sign a bond for costs in this cause, which motion is allowed, and also comes the defendant, by his attorney, and moves the court to dismiss this cause for want of such bond, which motion the court overrules; the defendant then enters his motion for leave to file a plea herein, and the plaintiff his motion for judgment by default for want of a plea.

Afterwards, to wit, on the 12th day of October, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

The motion heretofore made for judgment for want of a plea is overruled, and the defendant is allowed to plead, upon the payment of all costs of this suit up to the present time.

Thereafter, to wit, on the fourteenth day of July, in the year of our Lord one thousand eight hundred and fifty-five, the following proceedings were had in said cause, and entered upon record, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

Now, at this day comes the parties, by their attorneys, and upon issue joined, thereupon come a jury of good an lawful men, to wit: A. J. Haviland, James S. Taylor, Albert B. Clark, George W. Prickett, Samuel Gilbertt, B. F. Hayes, J. Pierce, B. W. Ranstead, R. O. Old, Michael Regan, Charles S. Boyd, and Nathan Allen, who were duly elected, tried, and sworn, and after proceeding with the trial until the hour of adjournment, the further trial of this cause is postponed until Monday morning next.

Afterwards, to wit, on the 16th day of July, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

Now comes the jury heretofore empanelled in this cause, and also come again the parties, by their attorneys, and after hearing the remainder of the evidence and the argument of counsel, the instructions to the jury by the court are postponed until to-morrow morning.

Afterwards, to wit, on the 17th day of July, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

The jury heretofore empanelled in this cause this day comes into court, and now comes also the parties, by their attorneys, and the jury, after receiving instructions from the court, retire to consider of their verdict, and after remaining together several hours the jury returned into court and having reported that they were unable to agree upon a verdict, by agreement of the parties, by their attorneys, the jury were discharged by the court from the further consideration of the cause.

Afterwards, to wit, on the 9th day of July, in the year A.D. 1856, the following among other proceedings were had in said cause, and entered of record, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

Now, at this day comes the parties, by their attorneys, and upon

issue joined, thereupon come a jury of good and lawful men, to wit: James H. Stewart, Daniel Bedee, William McKee, Daniel P. Holt, William Henry, Thomas Burnett, Benjamin Hackney, Rufus Ordway, Peter S. Stout, Erastus Torrey, William D. Tourtellett, and M. Tagart, who were duly elected, tried, and sworn, and after proceeding in the trial of this cause until the hour of adjournment without concluding the same, the further trial of the cause is postponed until to-morrow morning.

Afterwards, to wit, on the 10th day of July, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

The jury yesterday empanelled in this cause this morning returned into court, and now come again the parties, by their attorneys, and after proceeding in the trial of the cause until the hour of adjournment without concluding, one of the jurors of the panel sworn in this cause, to wit, William D. Tourtellett, for good reasons shown, is, by consent of the parties, by their attorneys, excused from further services as a juror; by the court and by agreement of the parties by their attorneys, it is ordered, that the trial proceed to the eleven jurors, and that their finding have the same force and effect as if the panel had been full; and the further trial of the cause is postponed until to-morrow morning.

Afterwards, to wit, on the 11th day of July, in the year last aforesaid, the following proceedings were had in said cause, and entered of record, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

It being reported to the court that Judge Purple, of counsel for the plaintiff herein, is sick, and unable to appear in court this morning,

It is ordered by the court, with the assent of the defendant, by his attorneys, that the further trial of this cause be postponed to a future day of the term.

And afterwards, to wit, on the 14th day of July, in the year last aforesaid, the following proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

Two additional jurors of the original panel sworn to try the issue in this cause, to wit, James H. Stewart and Benjamin Hackery, having been excused by the court by consent of the parties, by their attorneys, from further service in this cause,

Now come again the parties, by their attorneys, and also the remainder of the panel of nine jurors, heretofore sworn in the cause; and the parties, by their attorneys, waive all exceptions for want of a full panel, and agree to proceed with the trial to the nine jurors; and after hearing the conclusion of the testimony and a part of the argument of counsel, the hour of adjournment having arrived, the concluding arguments of counsel are postponed until to-morrow morning.

And thereafter, to wit, on the 15th day of July, in the year aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

Now come the nine jurors heretofore sworn to try the issue in this cause, and now came again the parties by their attorneys; and after hearing the concluding arguments of counsel and receiving instructions from the court, it being near the hour of adjournment, it is ordered by the court, by consent of the parties, by their attorneys, that the jury be permitted to disperse, and to meet to consider of their verdict to-morrow morning.

And thereafter, to wit, on the 16th day of July, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

The jury heretofore empanelled in this cause, after retiring and

considering of their verdict, this day returned into court with the following verdict, to wit: We, the jury, find the defendant guilty of unlawfully withholding from the possession of the plaintiff the land and premises described in the first count of the plaintiff's declaration, to wit:

The lot containing twenty-seven thousand four hundred and forty-nine square feet and seven-hundredths of a square foot, surveyed and and designated as covered by claim number twenty-nine, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, in the county of Peoria, and State of Illinois, according to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri, as by reference to said survey and the plat thereof will fully appear. We also find the estate established in the plaintiff on the trial to be an estate in fee simple; and we assess the damages of the plaintiff at the sum of one cent. It is, thereupon, considered and adjudged by the court, that the plaintiff have and recover of and from the defendant possession of said described land and premises, according to the force, form, and effect of his said recovery; and that he have a writ of possession therefor; and that he also have and recover of and from the defendant the said sum of one cent, his damages as aforesaid assessed, together with his costs by him about his suit in this behalf expended, amounting to the sum of seventy-two dollars and forty cents; and that he have execution therefor.

And thereafter, to wit, on the 28th day of July, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

The defendant, by his attorney, comes and moves the court to vacate the judgment heretofore entered against him on the instant, and for a new trial of the cause. And it appearing satisfactorily to the court, that all the taxed costs herein have been paid by the defendant, it is thereupon considered by the court, that the judgment aforesaid be vacated and set aside, the cause redocketed, and a new trial had.

And thereafter, to wit, on the 10th day of July, in the year of our Lord one thousand eight hundred and fifty-seven, the following proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

This cause having been called for trial, when, on application of the defendant, by his attorney, on affidavit filed, it is ordered, that the trial of the same be postponed for one week; and that a commission issue, at the instance of the defendant's attorney, to Alexander P. Garesche, S. A. Holmes, and E. H. Dubrieuil, Esquires, of St. Louis, authorizing them, or either of them, or any person in St. Louis authorized by the Act of Congress to take depositions, to take the depositions of the witnesses named in the affidavit of the defendant at St. Louis, upon direct and cross-interrogatories filed herein.

And thereafter, to wit, on the 20th day of July, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

On application of the plaintiff by his attorney, on affidavit filed, it is ordered by the court, that this cause be continued to the next term, at the costs of the plaintiff, and that execution issue therefor.

And thereafter, to wit, on the 6th day of October, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

Now at this day come the parties by their attorneys, and upon issue joined thereupon came a jury of good and lawful men, to wit: William S. Hughes, V. G. Harbaugh, John L. Smith, John Thomas, William Nixon, William H. Whitton, J. R. Webster, Ezekiel F. Holloway, John Robb, James Clark, Geo. W. Morton, and Geo. W. Haskell, who were duly elected, tried, and sworn; and after presenting the cause to the jury, the hour of adjournment having arrived, the trial of the cause is postponed until to-morrow morning.

And thereafter, to wit, on the 7th day of October, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

Now come again the parties by their attorney, and now come also the jury heretofore impanelled in this cause, and after proceeding in the trial to the hour of adjournment without concluding the same, the further trial of this cause is postponed until to-morrow morning.

And thereafter, to wit, on the 8th day of October, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

Now come again the parties by their attorneys, and now come also the jury heretofore impanelled in this cause, and after concluding the testimony, the hour of adjournment having arrived, the arguments of counsel are postponed until to-morrow morning.

And afterwards, to wit, on the 9th day of October, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

Now come again the parties by their attorneys, and now come also the jury heretofore impanelled in this cause, and after proceeding with the arguments of counsel until the hour of adjournment, without concluding the same, the concluding arguments of counsel are postponed until to-morrow morning.

And thereafter, to wit, on the 10th day of October, in the October adjourned term of said Circuit Court, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Ejectment.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

Now come again the parties by their attorneys, and now come also the jury heretofore impanelled in this cause, and after hearing the concluding arguments of counsel, and receiving instructions from the court, the jury retire to consider of their verdict; and after a short absence returned into court with the following verdict, to wit:

We, the jury, find the defendant guilty of unlawfully withholding from the possession of the plaintiff the real estate and premises described in the plaintiff's declaration, to wit: The lot containing twenty-seven thousand four hundred and forty-nine square feet, and seven-hundredths of a square foot, surveyed and designated as covered by claim number twenty-nine in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey, approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri, as by reference to said survey and that plat thereof will more fully appear.

We also find the estate established in plaintiff, upon the trial, to be an estate in fee simple, and assess his damages at the sum of one cent. And the defendant by his attorney moves the court for a new trial, which motion is overruled. It is thereupon considered and adjudged by the court, that the plaintiff have and recover of the said defendant, possession of the said described real estate and premises, according to the force, form, and effect of his said recovery, and that he have a writ of possession therefor; and that he also have and recover of the said defendant the said sum of one cent, his damages, together with his costs by him about his suit in this behalf expended, amounting to the sum dollars and cents, and that he have execution therefor.

On the 17th day of July, in the year of our Lord one thousand eight hundred and fifty-five, the following stipulation was filed in the office of the clerk of said court, in said cause, which said stipulation is in the words and figures following, to wit:

In the Circuit Court United States, Northern District of Illinois.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

The plaintiff in this cause stipulates, that in case judgment shall be rendered for the plaintiff in said cause, that the defendant may re-

move this cause to the Supreme Court of the United States, in manner provided by law, by Charles Ballance signing a bond conditional according to law, without the said defendant entering into said bond. The object of this stipulation being to obviate the necessity of the defendant's signing a bond; in all other respects there is no waiver of the forms or rules of law relating to the removal of causes from this to the Supreme Court.

A. H. PURPLE,
Plaintiff's Attorneys.

July 17, 1855.
Filed, July 17, 1855. WM. H. BRADLEY,
Clerk.

And afterwards, to wit, on the 13th day of October, in the year of our Lord one thousand eight hundred and fifty-seven, came Charles Ballance, attorney for defendant, and filed in the office of the clerk of said court his appeal bond, which said appeal bond is in the words and figures following, to wit:

Circuit Court of the United States, for the Northern District of Illinois. Of the October Term, A.D. 1857.

RICHARD GREGG
ads.
WILLIAM P. BRYANT. } In Error.

Know all men by these presents, that I, Charles Ballance, am held and firmly bound unto William P. Bryant, the above plaintiff, in the sum of two thousand dollars, to be paid to the said plaintiff, his executors, or administrators.

To the payment whereof, well and truly to be made, I bind myself, and my and each of my heirs, executors, and administrators, firmly by these presents.

Sealed with my seal, and dated this 12th day of July, 1857.

Whereas, the above Charles Ballance has prosecuted a writ of error to the Supreme Court of the United States (but in the name of said Richard Gregg), to reverse the judgment rendered in the above-entitled cause, by the above-named court, at its present session.

Now, therefore, the condition of this obligation is such, that if the above-named Charles Ballance shall prosecute the said writ of error with effect, and answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void; but otherwise, it shall remain in full force and virtue.

C. BALLANCE. [SEAL.]

Signed, sealed and delivered
in presence of

Filed Oct. 13th, 1857.

WM. H. BRADLEY,
Clerk.

Security approved as by stipulation of the party plaintiff.
Oct. 13, 1857.

THOMAS DRUMMOND.

Whereupon a writ of error was issued, out of the office of the clerk of said court, and filed in said cause, which said writ of error is in the words and figures following, to wit:

United States of America, Northern District of Illinois.

The United States of America, to the Judges of the Circuit Court of the United States for the Northern District of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment, in a plea which is in the said court before you, between William P. Bryant and Richard Gregg, a manifest error hath happened, to the great damage of the said Richard Gregg, as by his complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf. You are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday in December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this 12th day of October, A.D. 1857, and of our independence the 82d year.

[L. S.]

WM. H. BRADLEY,
Clerk.

Filed Oct. 13, 1857.

WM. H. BRADLEY,
Clerk.

The following exceptions were made by defendant upon the trial of this cause, and were allowed by the court, to wit:

WILLIAM P. BRYANT
v.
RICHARD GREGG. } In Ejectment.

Be it remembered, that on the trial of this cause, the plaintiff, to maintain the issue on his part, introduced in evidence:

1st. An act of Congress, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."
Approved May 15th, 1820.

2d. An act of Congress, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois." Approved March 3, 1823. Which acts are found in the Statutes at Large.

3. The plat and report of Edward Coles, register of the land office at Edwardsville, dated Nov. 10, 1820, contained in the third volume of American State Papers, concerning public lands, selected and edited under the authority of the Senate of the United States, by Walter Lowrie, secretary of the Senate, and printed by Duff Green, in 1834, from page 421 to 430, inclusive, in which said report, so far as relates to the claim in controversy, is as follows:

No. 29. Simon Roi, in right of his wife, who was the wife of Charles Le Dom, of Peoria, claims a lot in Peoria, containing about one-half of an arpent of land, and bounded on the south by a lot of Antoine Roi, on the north by the lot of Francis Duprè, and on the east and west by streets.

Proof. Drezy Blondeau, and John Baptiste Blondeau, testify, on oath, that Charles Le Doux made an improvement on the above-described lot, in the year 1793, and continued to reside on and cultivate the same until his death; that the above-named Simon Roi married the widow of the said Charles Le Doux about the year 1799; and that they, the said Simon Roi and wife, continued to reside on and cultivate the said lot until about the year 1808, or 1809, when they removed from Peoria.

And which said plat is as follows:

4th. A plat and survey of the village of Peoria, which is as follows:

(For map, see original, page 27.)

Description: Begin at the upper end of the southeastern edge of First street, on the N.W. bank of Lake Peoria, thence N. 46½° W. one hundred feet, to the eastern corner of unclaimed lot "A," 420 feet 10 inches, the north corner of said unclaimed lot "A," at the N.E. end of the S. E. edge of Second street, 486 feet 10 inches to the N. E. end of the N. W. edge of Second street; thence S. 43½° W. with the N.

W. edge of Second street, 256 feet 8 inches, to the intersection with the N. E. edge of street "A;" thence N. 46½° W. with the N. E. edge of street "A," 320 feet 10 inches, to the N.W. end of the N.E. edge of said street "A;" thence S. 43½° W. 66 feet, the north corner of lot No. 66 at the N. W. end of the S. W. edge of said street "A," 108 feet 9⅓ inches, the west corner of lot No. 66 and north corner of unclaimed lot "C," 322 feet 8 inches, the west corner of unclaimed lot "C" and the north corner of lot No. 12; 408 feet 2⅔ inches, the west corner of lot No. 12 and the N. W. end of the N. E. edge of street "B," 474 feet 2⅔ inches, the N.W. end of the S. W. edge of street "B," and the north corner of lot No. 8; 709 feet 6 inches, the north corner of lot No. 15; 795 feet and ⅔ of an inch to the west corner of lot No. 8, which is also the west corner of lot No. 15 and east corner of lot No. 61, and north corner of lot No. 28; thence N. 46½° W. with the N. E. boundary of lot No. 61, 15 chains and 40 links, to the north corner of lot No. 61; thence with the N. W. boundary of lot No. 61, S. 43½° W. 5 chains and 52¼ links, to the west corner of lot No. 61; thence with the S. W. boundary of lot No. 61 S. 46½° E. 4 chains and 94 links, to the north corner of lot No. 51 at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 61; thence with the N. W. boundary of lot No. 51, S. 43½° W. 4 chains and 88 links to the west corner of lot No. 51; thence with the S. W. boundary of lot No. 51, S. 46½° E. 6 chains and 10 links to the north corner of lot No. 40, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 51; thence with the N. W. boundary of lot No. 40, S. 43½° W. 3 chains and 23⅓ links, to the west corner of lot No. 40; thence with the S. W. boundary of lot No. 40 S. 46½° E. 4 chains and 34 links, to the N. W. end of the N. E. edge of street "E," on the S. W. boundary of lot No. 40; thence S. 43½° W. 66 feet to the N. W. end of the S. W. edge of street "E," and the north corner of unclaimed lot E, 322 feet 8 inches to the east corner of lot No. 31 at the intersection of the N. E. boundary thereof with the N. W. boundary of unclaimed lot E; thence with the N. E. boundary of lot No. 31, N. 46½° W. 13 chains and 16 links, to the north corner of lot No. 31; thence with the N. W. boundary of lot No. 31 S. 43½° W. 3 chains and 88 links, to the west corner of lot No. 30, at the intersection of the N. W. boundary thereof with the N. E. boundary of lot No. 270; thence with the N. E. boundary of lot No. 37 N. 46½° west, 5 chains and 5½ links, to the north corner of lot No. 37; thence with the N. W. boundary of lot No. 37 S. 43½° W. 7 chains and 66 links, to the west corner of lot No. 37; thence with the southwest boundary of lot No. 37, S. 46½° E. 6 chains and 67½ links to the north corner of lot No. 67, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 37; thence with the N. W. boundary of lot No. 67, S. 43½° W. 6 chains, to the west corner of lot No. 67; thence with the southwest boundary of lot N. 67,

S. 46½° E. 6 chains and 38 links, to the south corner of lot No. 61, on the N. W. boundary of lot No. 64; thence S. 43½° W. 1 chain and 66 links, the west corner of lot No. 64 and north corner of lot No. 20, 7 chains and 61 links, the west corner of lot No. 20, and north corner of lot No. 48, 11 chains and 86 links, to the west corner of lot No. 48; thence with the S. W. boundary of lot No. 48, S. 46½° E. 6 chains and 88 links, the point of intersection of the S. W. boundary of lot No. 48 with the section line between section 9 and 16, township 8 north, range 8 east, of the 4th principal meridian, which point is 13 chains and 93 links, N. 89½° W. of the corner, to fractional sections 9 and 16 on the lake, 8 chains, to the south corner of lot No. 48; thence with the southeast boundary of lot No. 48, N. 43½° E. 1 chain and 6 links, the point of intersection of the S. E. boundary of lot No. 48 with the section line between sections 9 and 16, township 8 north, range 8 east, of the 4th principal meridian; which point is 12 chains and 38 links N. 89½° W. of the corner, to fractional section 9 and 16, on the lake:) 4 chains and 25 links, to the east corner of lot No. 48, on the S.W. boundary of lot No. 20; thence with the S. W. boundary of lot No. 20, S. 46½° E. 2 chains, to the south corner of lot No. 20; thence N. 43½° E. 5 chains and 95 links, the east corner of lot No. 20 and south corner of lot No. 64, 13 chains and 61 links, the east corner of lot No. 64, and south corner of lot No. 43, 21 chains and 27 links, to the east corner of lot No. 43, and south corner of lot No. 34, at the S. W. end of the N. W. edge of Second street; thence S. 46½° E. 66 feet, the S. W. end of the S. E. edge of Second street and West corner of lot No. 33, 386 feet 10 inches; the south corner of lot No. 33, 491 feet 1⅓ inches, to the lower end of the S. E. edge of First street, on the N. W. bank of Lake Peoria; thence along the N. W. bank of Lake Peoria the following courses and distances, N. 38° E. 176 links; thence N. 42° E. 432 links; thence N. 17¾° E. 150 links; thence N. 78° E. 72 links; thence 47½° E. 417 links; thence N. 37° E. 188 links; thence N. 44¾° E. 2448 links, to the place of beginning.

Then for connection with the public surveys, run from said place of beginning along the N. W. bank of Lake Peoria the following courses and distances: N. 44¾° E. 1081 links; thence N. 50¾° E. 1300 links, to the point of intersection of the section line between sections 9 and 10 with the N. W. bank of Lake Peoria, which point is 2406 links S. 0° 30′ W. of the corner to sections 3, 4, 9, and 10, township 8 north, range 8 east, of the 4th principal meridian. Also from the lower end of the S. E. edge of First street, the following courses and distances along the bank of the lake, were taken for connection: S. 51¾° W. 198 links; thence S. 39° W. 819 links; thence S. 41¼° W. 216 links; thence S. 49½° W. 287 links; thence S. 85° W. 116 links to the point of intersection of the section line between sections 9 and 16, township 8 north, range 8 east, of the 4th princi-

pal meridian, which point is 2510 links S. 89° 30′ E. of the corner to sections 8, 9, 16, and 17, of said township.

Surveyed on the several days designated in the foregoing separate descriptions of the lots, by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands in the States Illinois and Missouri, bearing date 11th of April, 1837.

Examined and approved this first day of September, 1840.

(Signed) WILLIAM MILBURN,
Surveyor of the Public Lands in the States of Illinois and Missouri.

SURVEYOR'S OFFICE,
SAINT LOUIS, May 2d, 1849.

The foregoing plat and description of the out boundaries of the new viliage of Peoria in the State of Illinois, is correctly copied from pages 79 and 80 of a book on file in this office, entitled "Records of Surveys, Peoria, Illinois."

F. R. CONWAY,
Surveyor of the Public Lands in the States of Illinois and Missouri.

5. A separate plat and survey of said lot No. twenty-nine (29), which is as follows:

Claim No. Twenty-nine.

Situate in the southwest fractional quarter of fractional section 9, in fractional township 8 north of the base line, range 8 east, of the 4th principal meridian.

Plat and description of the survey of a lot in the new village of Peoria, in the State of Illinois, confirmed to Simon Roi, in right of his wife; who was the wife of Charles Le Doux, of Peoria, by an act of Congress, approved the 3d of March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," it being No. 29 of the report made by the register of the land office at Edwardsville, in pursuance of the act of Congress, approved the 15th of May, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

(For plat, see original, page 35.)

Description.

Commence at a post in the N. W. edge of First street, which post is the south corner of this lot, and east corner of lot No. 33. Thence N. 46½° W. 320 feet, 10 inches, to a post in the S. E. edge of Second street, which post is the west corner of this lot, and north

corner of lot No. 33. Thence with the S. E. edge of Second street, N. 43½° E. 85 feet, 6 inches and ⅔ of an inch, to a post, the north corner of this lot, and west corner of unclaimed lot "B.," in the new village of Peoria. Thence S. 46½° E. 320 feet, 10 inches, to a post, in the N. W. edge of First street, which post is the east corner of this lot, and south corner of the above-mentioned unclaimed lot "B." Thence with the N. W. edge of First street, S. 43½° W. 85 feet, 6 inches and ⅔ of an inch, to the place of beginning.

This lot contains 27,449 square feet and $\frac{7}{100}$ of a square foot of land, equal to 24,000 square feet French measure.

Surveyed on the first of May, 1837, by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunkin, surveyor of the public lands in the States of Illinois and Missouri, date the 11th of April, 1837.

Examined and approved this first day of September, 1840.

WILLIAM MILBURN,
Surveyor of the Public Lands in the
States of Illinois and Missouri.

SURVEYOR'S OFFICE, ST. LOUIS, 14th May, 1849.

I certify that the above is a correct copy of the original plat and description of the survey of lot No. 29, of the new village of Peoria, in S. 8 N. of base line R., and E. of the 4th pl. meridian, as the same is found in the record of lots in Peoria, in this office.

F. R. CONWAY,
Surveyor of the Public Lands in the
States of Illinois and Missouri.

6. A patent from the United States to the legal representatives of Simon Roi, which is as follows:

The United States of America.

To all to whom these presents shall come, greeting:

Whereas, there has been deposited in the General Land Office, a certificate numbered twenty-two, of the register and receiver of the land office at Edwardsville, Illinois, whereby it appears that in the report dated 10th November, 1820, of Edward Coles, register of the land office, at Edwardsville, Illinois, "the claim of Simon Roi, in right of his wife, the late widow of Charles Le Doux, deceased," is entered as number twenty-nine, the said Roi being also entitled in virtue of his own settlement and cultivation; and whereas, it further appears, from the certificate aforesaid, that the said Charles Le Doux is the inhabitant or settler within the purview of the confirmatory act of Congress, approved 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," and that it has appeared to the satisfaction of said register and receiver, that neither the said Charles Le Doux, nor the said Simon

Roi did, prior to the said act of 3d of March, 1823, receive "a confirmation of claims or donation of any tract of land or village lot from the United States;" and that the legal representatives of the said Simon Roi, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot which is described as follows, to wit:

The lot containing twenty-seven thousand four hundred and forty-nine square feet, and seven hundredths of a square foot, surveyed and designated as covered by said claim number twenty-nine, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri; and whereas, in the confirmatory act aforesaid, of the 3d March, 1823, it is provided, that "nothing in this act contained, shall be so construed as to affect the right, if any such there be, of any other person or persons to the said lots, or any part of them, derived from the United States or any other source whatever," &c.

Now know ye, that in consideration of the premises, and pursuant to the second section of the act aforesaid of the 3d March, 1823, there is granted by the United States unto the legal representatives of the said Simon Roi, and to their heirs, subject to the proviso aforesaid, the lot of land above described.

To have and to hold the said lot of land with the appurtenances unto the said legal representatives of Simon Roi, and to their heirs and assigns, forever, subject to the proviso aforesaid.

In testimony whereof, I, James K. Polk, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the twenty-seventh day of March, in the year of our Lord one thou-
[L. S.] sand eight hundred and forty-seven, and of the independence of the United States the seventy-first.

By the President,

JAMES K. POLK.

By KNOX WALTER,
Secretary.

Recorded, vol. 10, pages exd. 131 and 132.

S. H. LAUGHLIN,
Recorder of the General Land Office.

Defendant objected to said plats, upon the ground that they were not certified from the proper offices. Also to said patent and report, as incompetent testimony. The court overruled the objections and admitted the evidence.

Plaintiff read in evidence the deposition of Madeline Glodon, taken May 29th, 1854, which is as follows:

Be it remembered, that on the 29th day of May, A.D. 1854, Norman H. Purple personally appeared before me, and made oath that he was counsel in a suit then pending in the Circuit Court of the United States for the Circuit and District of Illinois, wherein William Bryant was plaintiff and Richard Gregg was defendant.

That the testimony of Madeline Glodon, of the county of St. Clair, and State of Illinois, was material and necessary for said plaintiff in the prosecution of such suit, and that said Madeline Glodon lived at St. Clair County, State of Illinois, more than one hundred miles from Chicago, where the court at which he expected said cause would be tried, was appointed by law to be held. That Richard Gregg, the above-named defendant, resides at Peoria, Illinois, about one hundred and fifty miles from St. Clair County, the place where the examination of the said witness is expected to be taken as aforesaid. And that Charles Ballance, his attorney, resides at Peoria aforesaid, about one hundred and fifty miles from St. Clair County aforesaid; and that the said Norman H. Purple in behalf of the said William P. Bryant, requested me that the said Madeline Glodon might be examined according to the directions of the acts of Congress in such case made and provided. Whereupon I ordered that the said Madeline Glodon should be examined, de bene esse, before me, at the residence of Nicholas Glodon in St. Clair County, on this 29th day of May, A.D. 1854.

And the said Madeline Glodon appearing before me, at the place and on the day and time last aforesaid, I have therefore proceeded with the said examination; and the said Madeline Glodon being carefully examined and cautioned, and duly sworn to testify to the whole truth, and nothing but the truth, saith:

That she was born at the Falls of Niagara, in the State of New York, and is now fifty-seven years of age; that she was two months old when she came to Peoria, in the State of Illinois, as she was informed by her father; that she lived in Peoria all the time till she was eight years of age, when she removed to Cahokia, in Illinois, where she lived about three years, and then returned to Peoria and married there at the age of eleven (11) years with Antoine Lapence.

She left Peoria in the war when the village was burned, and the inhabitants driven off by Capt. Craig, about forty-four years ago. Witness say that she was well acquainted with Antoine Roi; she knew him at Peoria, at Portage Des Sioux, and in the county where he died, twenty-six years ago last October, at Illinoistown. Said Antoine Roi was a settler in Peoria, on the lowest lot in the village; his brother Simon lived on the next lot above. Antoine Roi was married at Peoria, and had two children, a boy and a girl; the boy died in his minority without issue. The daughter was married in this county, St. Clair, and died leaving one child, a boy, who died at about fifteen years of age without issue.

Her husband died in this county. They have all been dead about

ten years and upwards. Antoine Roi had no other relation (brother or sister), except the said Simon Roi, to the knowledge of deponent.

Antoine Roi married his second wife, a Miss Miette, at Portage Des Sioux, his first wife having died; they lived together as husband and wife, and were married.

While so living together, said Antoine and his second wife had a girl living with them who was reputed to be their daughter, and was recognized by them, and baptized as their daughter.

Her name was Mary Roi. She is now the wife of Touissant Gendron, and resides in this county, and has resided here ever since she was 10 years of age; that is, for about 28 or 30 years.

She is now about 40 years of age.

She has been the wife of said Gendron about 19 years. Antoine Roi never had any other children. Witness further says, that there has been no other descendant besides said Mary Gendron, no other relation of Antoine Roi living within the last 10 or 11 years.

Further, the said witness Madeline Glodon saith, Simon Roi died about 18 years ago. He was married twice; his children all died before he did. He had two children, a son and daughter, Simon and Margaret; Simon, the son, died without issue; Margaret, the daughter, married Paul Delingchamp and had one child, which died in infancy. She afterwards died without any other issue.

The son, daughter, and grandchild of said Simon Roi all died before he died. Said Simon Roi left no other relative, to deponent's knowledge, than his niece Mary, the present wife of Touissant Gendron. She, deponent, was well acquainted with both families of Antoine and Simon Roi for a period of 40 years. She knew them as well as she knew any other family.

There was never any other Antoine or Simon Roi who lived at Peoria.

her
MADELINE ⋈ GLODON.
mark.

And I do further certify that the foregoing deposition was taken by me, and by me reduced to writing, on the day and time and at the place in the foregoing order mentioned, and that the same was subscribed by the said witness in my presence, by her making her mark to the same at the foot of said deposition (she not being able to write her name), and that I am not of counsel for either party in said cause.

Witness my hand and the seal of the County Court of St. Clair County, at St. Clair county, in the State of Illinois, this 29th May, A.D. 1854.

NATH'L NILES,
County Judge of St. Clair County, Ills.

State of Illinois, St. Clair County, *ss.*

I, John Schell, clerk of the County Court for St. Clair county, and ex-officio recorder of civil commissions in and for said county, certify that Nathaniel Niles is now and was on the 29th day of May, 1854, county judge of St. Clair county, Illinois, duly elected, commissioned, and qualified; that his signature to the foregoing certificate is genuine; and that full faith and credit is and ought to be given to all his official acts as such.

Witness John Scheel, clerk of said County Court, and the seal thereof, at Bellville, this 30th day of May, 1854.

[L. S.]

JOHN SCHEEL.
By R. SECTZ,
Deputy.

Opened and filed, Oct. 10, 1854.

WM. POPE,
Clerk.

8. A deposition of Isadore Lecompte, taken May 23, 1855, which is as follows:

Be it remembered, that on the 23d day of January, A.D. 1855, application was made to me by Norman H. Purple, upon his affidavit, stating that he was attorney for the plaintiff in a suit then depending in the Circuit Court of the United States for the District and Circuit of Illinois, wherein William P. Bryant was plaintiff, and Richard Gregg was defendant; and that the testimony of Isadore Lecompte and Louis Lecompte was material and necessary for the said plaintiff in the prosecution of said suit; and that they, the said witness, lived at Cohokia, in St. Clair county, more than one hundred miles from Chicago, where the court at which the said plaintiff expected the said cause would be tried was appointed by law to be held. That Richard Gregg, the said defendant, and Charles Ballance, his attorney, resided at Peoria, Illinois, about one hundred and sixty miles from Cohokia aforesaid; and I was requested, on the behalf of the said plaintiff, that the said Isadore Lecompte and Louis Lecompte might be examined *examined* according to the act of Congress in such case made and provided.

Whereupon I ordered that the said Isadore Lecompte and Louis Lecompte should be examined before me, *de bene esse*, at Cohoka, in the county of St. Clair, in the State of Illinois, on the 23d day of January, A.D. 1855, at two o'clock in the afternoon of said day; and the said Isadore Lecompte and Louis Lecompte, appearing before me at Cohoka aforesaid, on this 23d day of January, A.D. 1855, I have therefore proceeded with said examination.

And the said Isadore Lecompte, being carefully examined and cautioned, and duly sworn to testify the truth, the whole truth, and

nothing but the truth, saith, that he is sixty-six years of *adge;* that he was born in Cohoka, St. Clair county, Illinois, where he has resided up to this time, with the exception of some six years, at different times, from the year 1812 up to 1820, at which time he was a ranger in the United States service in this State, and some part of said time employed as a *voeaguer* for *certn* Indian traders then stationed on the Illinois river.

That he was well acquainted with Antoine and Simon Roi; that they were brothers, and both resided in the village of Peoria, situated on the Illinois river, at the above date; that they were both married, and had families *white* them; that they, Antoine and Simon Roi, both removed to this county shortly after that date; that Antoine Roi died in St. Clair county, left a widow and three children; that Simon Roi wife died shortly after the death of Antoine Roi (with whom said Simon had two children), Simon Roi then married the widow of his brother Antoine; that two of the children of said Antoine died, and that one is *yeat* living and residing in St. Clair county, Ill.; her name is Mary, now wife of Tanissend Gendron; and that both Antoine and Simon Roi have been dead over twenty years, and left neither father or mother, brother or sister, or descendants of brothers or sisters; that since the death of said Antoine and Simon, and the wife of Simon, who was the widow of his brother Antoine, all of the children of said Simon died, and all the children of said Antoine, except said Mary Gendron, daughter of said Antoine Roi; and that all of said deceased children have been dead over ten years. And that there is not now, and has not been for more than ten years, any other living descendants or relatives of said Antoine and Simon Roi, except said Mary Gendron, who is the daughter of said Antoine Roi, deceased.

his
ISADORE ⋈ LECOMPTE.
mark.

Subscribed and sworn to before me, this 23d January, A.D. 1855.
NARCISSE RENSONEAU,
Notary Public, St. Clair Co., Ills.

And I further certify that the foregoing deposition was reduced to writing by me, and signed by Isadore Lecompte; and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

Witness my hand and official seal, at the county of St. Clair aforesaid, this 23d day of January, A.D. 1855.
[L. S.]
NARCISSE RENSONEAU,
Notary Public, St. Clair Co., Ills.

9. A deposition of Louis Lecompte, taken January 23d, 1855, which is as follows:

And the said Louis Lecompte, being carefully examined and cautioned, and duly sworn to testify the truth, the whole truth, and nothing but the truth, saith: That he is seventy-two years of *adge;* that he was born in the town of Cohokia, St. Clair county, Illinois, where he has resided up to this time, with the exception of some eight years, from the year 1812 to 1820, which time he was *ingaged* as a ranger in the United States service, in the war of 1812, and as a *voeuger* for *certin* Indian traders, stationed on the Illinois river, during which period he had no fixed residence. That while employed on the Illinois river he became well acquainted with Antoine and Simon Roi; that they were brothers, and both resided in the village of Peoria, situated on the Illinois river, at the above date; that they were both married, and had families while there; that they both, Antoine and Simon Roi, removed to this county after said date; that shortly after said Antoine Roi died in this county, left a widow and three children. Shortly after, Simon Roi's wife died (left two children by Simon). Simon Roi then married the widow of his deceased brother, Antoine Roi; that two of the three children of said Antoine Roi died, and one is *yeat* living, whose name is Mary, now wife of Touissend Gendron; that both Antoine and Simon Roi have been dead over twenty years,—left neither father or mother, brother or sister, or descendants of brothers and sisters; that since the death of said Antoine and Simon Roi, and the wife as Simon, who was the widow of his brother Antoine, all of the children of said Simon died, and all the children of said Antoine died, except said Mary Gendron, daughter of said Antoine Roi; and that all of said deceased children have been dead some ten years; and that there is not now, and has not been for more than ten years, any other living descendants or relatives of said Antoine or Simon Roi, except said Mary Gendron, who is the daughter of said Antoine Roi, deceased.

his
LOUIS ⋈ LECOMPTE.
mark.

Subscribed and sworn before me, this 23d January, A.D. 1855.
NARCISSE PENSONEAU,
Notary Public, St. Clair Co., Ills.

And I further certify the foregoing deposition was reduced to writing by me, and signed by Louis Lecompte, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

Witness my hand and official seal, at the county of St. Clair,
[L. S.] aforesaid, this 23d day of January, A. D. 1855.
NARCISSE PENSONEAU,
Notary Public, St. Clair County, Ills.

"10." The deposition of Mary Glendron, which was taken Sept. 26, 1855, and is as follows:

Deposition of Mary Glendron, taken by and before me, Nathaniel Niles, county judge of St. Clair county, in the State of Illinois, under and by authority of the annexed commission to me directed, at the residence of said Mary Gendron in said county, to be read in evidence on the trial of two certain causes, one between William P. Bryant, plaintiff, and Richard Gregg, defendaut; and one between Edward P. Tesson, plaintiff, and Richard Gregg, defendant, pending in the Circuit Court of the United States for the Northern District of Illinois.

N. NILES.

Mary or Marie Gendron being duly sworn as a witness, deposes and says as follows, in answer the interrogatories attached hereto, and accompanying the commission, also attached hereto and entitled, "Interrogatories to be propounded to Mary or Marie Gendron," and which are read over to her question by question; the said witness being a French lady and not speaking English with facility, Robert Forsyth is sworn, and acts as an interpreter for her.

Interrogatories to be propounded to Mary or Marie Gendron.

1st. What is your name, age, and residence?

To interrogatory 1, the witness answers as follows:

My name is Mary or Marie Gendron; I reside here, in St. Clair county, at Cantine, in the American bottom; my age 39 years.

2d. Did you or not know Antoine Roi in his lifetime? if so, state where he resided, when you knew him, and in what manner you were related to him?

To interrogatory 2, the answer is as follows:

Antoine Roi was my father; I recollect him very indistinctly; I was very young when he died; he died at Portage Des Sioux, in Missouri.

3. Is he dead or alive? if dead, where and about what time did he die?

To interrogatory 3, answer. I recollect when he died, I was very young; do not remember the length of time since he died; I remember seeing and hearing him call my mother to his bedside and embrace her before he died.

4. State whether the said Antoine Roi was ever married, and if so, how many times?

To interrogatory 4, answer. I always understood that my father Antoine Roi was married twice.

5. If you say that he was married twice, state as near as you can from your own knowledge or from information derived from his family and acquaintances, when each of his said wives died, if they are dead?

To interrogatory 5, answer. I have been informed the first wife of

Antoine Roi was dead when he married my mother. His second wife was my mother, and she has been deceased about 24 years.

5. What was his (Antoine Roi's) first wife's name before she was married to him? How many children did he have by said first wife? and what were their names?

To interrogatory 6, answer. The name of the first wife of Antoine Roi was Louise. I do not know her family name, I never heard it that I recollect. I have heard that my father had four children by his first wife, and I knew two; their names were Marie Loise, Josette, Ambroise, and Charles.

7th. If you say that their names were Mary Louise, Josette, Ambroise, and Charles, state whether any of them are now living, and if dead, about what time each of them died, or left the country, where they went to, and what became of them, to the best of your knowledge, and how long it is since they have been heard from by any of their friends and acquaintances?

To interrogatory 7, the following answer is given, to wit: Marie Loise died before the time of my recollection; she was married to one Papin, now dead also; I never knew whether she had any children, never heard of any; she died at Portage Des Sioux, or thereabouts in that region, as I have understood.

Josette is dead; she married one Latour—Balthazar Latour, and has been dead 25 or 26 years; she had children; I think they all died before she did. Ambroise and Charles died; Charles was killed in the Missouri country about 22 years ago; Charles was killed by Indians. Ambroise was married to Margaret Laverdem; she died about one year before her husband, without issue; she never had any children.

8th. Was Mary Louise ever married? did she ever have any children? if dead, when or about what time did she die? is her husband dead or alive? if dead, how long ago did he die? what was his name?

To interrogatory 8, she answers:

I have answered this in my answer to the 7th interrogatory. I do not know when or how long ago Papin, the husband of Marie Loise, died; she died before my father, I think; I do not know where.

9th. State whether Jassette ever married? did she ever have any children? if dead, when or about what time did she die? is her husband dead or alive? if dead, when did he die?

To interrogatory 9, answer. Jasette Roi was married to Balthazar Latour; she died 25 or 26 years ago; her husband died about 16 or 17 years ago, in Illinoistown; his wife Jasette died at Portage Des Sioux; she was his first wife. Her children died before she died, I believe.

10. State whether Mary Louise and Jasette died before or after their father, Antoyne Roi.

To interrogatory 10, she answers as follows, to wit: Marie Louise

Roi died before my father, and Jasette after my father died, as I understood in the family; I do not know of my own knowledge.

11. Was Ambrose or Charles ever married? If you say that Ambrose was, state whether he ever had any children. What became of his wife? If dead, when or about what time did she die? and what became of the said Ambrose and Charles? and how long it has been since they or either of them has been heard from?

To interrogatory 11, the following answer is given:

As I stated in my former answer to the 7th question, Ambrose Roi was married to Margaret Laverdem, who died about one year before her husband, and left no children. Charles was never married. Ambroise and Charles died at the same time nearly, about 22 or 23 years ago in the Missouri country.

12. What was the name of Antoine Roi's second wife? State whether she was your mother; and whether she is dead or alive. If dead, about what time and where she died?

To interrogatory 12, she answers as follows:

The name of Antoine Roi's second wife, my mother, was Mary Wyette, or Marie Louise Wyette, who died in Illinoistown, about 22 years ago.

13. How many children had said Antoine Roi by his second wife? and what were their names?

To interrogatory 13th, the answer is as follows:

Antoine Roi had four children by his second wife,—myself, Marie, wife of Touissaint Gendrom, one that died before it was christened, Antoine, and Pierre; Antoine died when about 7 years old; Pierre died about 15 years ago last February, without ever having been married.

14. If you state that he had four,—yourself, one not christened, Ambrose, and Pierre,—state whether any of them are still living except yourself. If dead, when and at what ages did they severally die?

To interrogatory 14, answer. Pierre was twenty (20) years of age when he died. All my father's children are dead except me. The rest of this question is answered in my last answer.

15. How long ago and at what place did Ambrose, Pierre, and the one not christened, die? and at what ages severally? and state whether either of them were ever married; and whether they or either of them left any children.

To interrogatory 15, answer. One child not christened was my mother's second child, and died about 37 years ago, three days old. The rest of this interrogatory is answered before.

16. State whether you are or are not the only surviving daughter or relative of the said Antoine Roi; and how long it is since he has had any children, brothers or sisters, father or mother?

To interrogatory 16, answer. I am the only surviving daughter and relative of my father, Antoine Roi; I never knew any father or

mother, brother or sister of Antoine Roi, except one brother, Simon Roi, who died about 23 years ago, here at this house. The last child living of my father, except myself, was my full brother, Pierre, who died 15 years ago, as I said, here at this house.

17. Did you know Simon Roi in his lifetime? was he ever married? and to whom?

To interrogatory 17, she answers as follows:

I knew Simon Roi; he raised me; he was my uncle and my step-father. He was married twice; the second time to my mother, in Cohoka. I understood he had then been married, but did not know his first wife.

18. If you say he was married twice, state about what time, when, and to whom he was married.

To interrogatory 18, answer. I heard that the name of Simon Roi's first wife was Margaret; I did not know her family. I was about ten years old when he married my mother; that was about 30 years ago.

19. Are his wives dead or alive? If dead, when or about what time did each of them die, and where? Had he any children by his first wife? If so, what were their names? Are they dead or alive?

To interrogatory 19, answer. I do not know when his first wife died; never having known her. His second wife, my mother, has been dead about 24 years; she died at Illinoistown. He, Simon Roi, had a son Simon and a daughter Margaret by his first wife; both of these children are dead long since.

20. If you say that he had a son named Simon and a daughter named Marguerite, state whether either of them were ever married, and to whom.

To interrogatory 20, answer. Of the two children of Simon Roi, Simon and Margaret, the son was never married. The daughter Margaret married Politte De Longchamps.

21. If you say that Simon is dead, state when he died; whether before or after his father, Simon, and whether at his death he left any issue or children.

To interrogatory 21, answer. Margaret Roi, daughter of my uncle, Simon, married Politte De Longschamps before her father married my mother. Simon, the son of my said uncle, died at Illinoistown, about 29 years ago, and before his father; and was never married.

21½. If you say that Marguritte was married, state to whom and about what time, whether she ever had any children. If so, what were their names? and whether they are dead or alive.

To interrogatory 21½, answer. Margaret De Longschamps, daughter of my uncle Simon, had several children by her husband, said De Longschamps, all of which died young before they were christened, and before their mother died.

22. If you say her child or children are dead, when did they die, and at what age, and whether before or after their mother's death?

To interrogatory 22d. Answer. This question is already answered.

23. Is the said Margurite dead or alive? if dead, about what time did she die? Was it before or after the death of her father Simon Rio? and if before, how long, and at what place?

To interrogatory 23d. Answer. Margaret de Longchamps, daughter of Simon Roi, my uncle, died about 28 or 29 years ago, at this place, Cantine. She died before her father. I recollect very well when she died.

24. Were you or not present at the death of Simon Roi or his daughter Margurette or either of them, or did you see them or either of them during their last sickness or after their deaths?

To interrogatory 24th. Answer. I was not present at the death of Margaret, the daughter of Simon Roi, my uncle. I was present at the death of said Simon Roi the elder, father of said Margaret. I was with him in his last sickness. He died in this house.

25. Did the said Simon Roi have any children by his second wife? Who was his second wife? If he had children by said second wife, what were their names? How long ago, and at what ages severally, did they each or either of them die?

To interrogatory 25th, she answers as follows: Simon Roi, my uncle, had 5 children by his second wife, who was my mother. 1, Narcisse, 2, Cyprian, 3, Angelique, and 3 and 4, two that died young without being christened or named. They all died without being married, and they all died before their father except the girl Angelique, who died about 15 days after her father died. They were all young at the time of their decease, and were never married. Angelique was 11 months old when she died, Narcisse and Cyprian were, the former 1 year old and the latter 4 years old when they died.

26. If you say that Simon Roi had four children by his second wife, and that their names were Narcisse, Cyprian, Angelique, and one not christened, state whether any or either of them were ever married, whether they are dead or alive, and whether they died before or after their father Simon?

27. How old were each of them at the time of their deaths, Narcisse, Cyprian, Angelique, and one not christened, and if you say that Angelique died after her father Simon, how long was it after his death and at what age she died?

To the 26th and 27th interrogatories the witness answers that she has answered before and herein.

28. Had Antoine or Simon Roi at the time of the death of Simon any father or mother, brother or sister, child or children, or descendant or descendants of either living except yourself or those hereinbefore mentioned by you? If so, what were their names?

To interrogatory 28th the witness answers: Antoine Roi and Simon Roi, my father and uncle, at the time of their deaths had no

father or mother, brother or sister, child or children, nor descendant of either of them except myself and Angelique Roi, who died about 15 days after her father Simon Roi, and my brother Pierre, who died about 15 years ago, never having been married.

29. State whether there is at this time living, except yourself, any surviving descendant or relative of the said Antoine or Simon Roi, or either of them, and how long it has been since there has been any such other descendant or relative of said Antoine or Simon living?

To interrogatory 29th the witness answers: I am the only surviving descendant and relative of Antoine and Simon Roi, as before stated. It is 15 years since there was any other descendant or relative of the said Simon and Antoine to my knowledge.

30. What relation were said Antoine and Simon Roi to each other?

To interrogatory 30th. Answer. They were brothers.

31. State whether after the death of your father Antoine, your mother was married to Simon Roi, and if so, what was about your age at that time?

To interrogatory 31. Answer. This question is already answered.

32. Do you know any other matter or thing of benefit to either party? If so, state the same fully?

To interrogatory 32d. Answer. I do not think of anything else of benefit to either party.

33. Did you ever know one Belshazer Latour? If so, state whether he was ever married, how many times, and to whom? What were the first names of his wives severally, and whose daughters were they?

To interrogatory 33d. Answer. I knew Balthasar Latour. He was married twice, the first time to Josette Roi, my half sister on my father's side, the second time to Popone Papin, or Catharine Papin, who was the mother of Louis Latour. Louis Latour was the son of Belthasar Latour by his second wife. Of this I am sure.

34. Whose daughter was Catharine, his last wife?

No answer in deposition to this interrogatory.

To the 7th interrogatory propounded to said Mary Gendron defendant objects, because the same is a leading question.

To the 8th, 9th, 10th, 11th, 12th, 14th, 15th, the same objection is made.

The 16th is objected to, because the witness is required to state a conclusion of law instead of facts from which the court may deduce the law.

To the 20th, 21st, 21½st, 23d, objection is made, because they are leading questions. To the 26th, 27th, 31st interrogotaries to said Mary Gendron propounded, he makes the same objections.

Defendant nevertheless prays that the following interrogatories may be propounded to said witness:

1st. Have you any interest in the result of this suit that you know of?

2d. Did John Reynolds, Samuel B. Chandler, William C. Kinney, or Narcisse Pensoneau, or either of them, ever pay you or your husband, or Simon Roi, to the best of your knowledge and belief, anything for any deed executed by you and your husband for the property in controversy in this suit? Or if any sale of the same by said Pensoneau, under a power of attorney, executed by you and your hnsband, was any part of the purchase-money ever paid or tendered to you or your husband?

3d. Have you any recollection of ever having seen said Antoine Roi?

4th. Were you not raised by Simon Roi, and did he not always recognize you as his daughter, and did you not recognize him and no one else as your father?

5th. Do you not know that Antoine Roi's son Ambrose was married to a Miss Labbadie, and that after said marriage, and before her death, she had a child? State the day and year as near as you can, when said Ambrose Roi and his said wife died, and the day on which said Charles Roi died.

6th. Had said Charles an eye of unusual appearance, on account of which he was vulgarly called Belle Eye?

7th. Did not Antoine Roi's daughter Jossette marry a man by the name of Balthazar Latour, and have children by him? If yes, how many? If said Josette is dead, state the day on which she died, if you can, or as near as you can.

8th. Do you know that Pierre Roi, the son of Antoine, had no children or child at his death, either legitimate or illegitimate? Can you tell when he died?

9th. If you have not stated it in answer to plaintiff's interrogatories, state now the name of each child said De Longchamps had by said Margaret, and the date of the death of each, and the number of years since the death of said Margaret.

10th. Was not said Paul De Longchamps alive after his said wife's death?

11th. State how long after Antoine Roi's death was it before Simon Roi married your mother? What was the date of your mother's marriage to said Simon?

12th. Did not said Simon cohabit with your mother before said marriage? and did she not have children by him before then? and if she had children by him before said marriage, how many?

13th. Did not said Simon and your mother live together, as man and wife, as far back as you can remember? If not that long, how long did they live together as man and wife?

14th. The parish records, at Cahoka, shows that Simon Roi and Maria Louise Miette had a child born on the 12th of February, 1831,

named Angelique. When did this child die? or, if you do not remember, about how old was she when she died?

15th. Said records also show that they had a child to die on the 16th day of January, 1832. What child was this, and how old was it?

Cross-examination.

To the 1st cross-interrogatory accompanying the commission hereto attached, to be propounded to the said witness, Mary Gendron, namely: Have you any interest in the result of this suit that you know of? the said witness answers as follows: I think I have.

To cross-interrogatory 2d, her answer is as follows: I have never received anything from any person for any interest in the property of my father or uncle. I recollect of my uncle and stepfather, Simon Roys, exchanging property in Peoria, for an old horse not worth fifteen (15) dollars, with John Reynolds, of this county. This trade was made many years ago, 28 or 29 years ago; I signed the deed, and at the time of acknowledging it, I told Narcisse Conoyer, the justice of the peace before whom I acknowledged it, that I signed it to carry out the bargain that my step-father had made. I never received anything, nor did my husband ever receive anything, for the property; nothing was ever offered to us for it, by anybody, except by Mr. Ballance, who offered me fifty dollars.

To cross-interrogatory 3d. Answer. Yes; I have seen Antoine Roi; he was my father.

To cross-interrogatory 4. I was raised by my uncle, Simon Roi; he never recognized me as one of his own children, only as his niece and step-daughter; and I recognized him as my father, as he raised me and was my step-father, and after the death of my mother he lived with me here until he died.

To cross-interrogatory 5. Answer. Ambrose Roi was married to a Miss Lavardein (never to a Miss Labbader), and never had any children by her. He died about 23 years ago, in the Upper Missouri country, and his wife died about a year before he did. Charles Roi died about the same time, killed by the Indians in the same country.

To cross-interrogatory 6th. Answer. Yes; Charles was called Belle-eye.

To cross-interrogatory 7. Answer. I do not remember when Josette, daughter of Antoine Roy and wife, of Belthasar Latour, died; she died at Portage Des Sioux, about 29 years ago. I never knew their children, and only know of them from hearsay. I heard Latour, the father, say that his children had died before his wife.

To cross-interrogatory 8th, her answer is as follows: No; Pierre Roi, son of Antoine Roi, came to live with me when 10 years old, and lived with me 10 years, and died here unmarried. He never had any children, legitimate or illegitimate.

To cross-interrogatory 9. Answer. All the children of Margaret

and Paul, or Politte De Longchamps, died young, and before their mother; she died 28 or 29 years ago, or thereabouts, and died before her father, Simon Roi.

To cross-interrogatory 10. Answer. Yes; Paul De Longchamps was alive after his wife's death.

To cross-interrogatory 11. Answer. It was one and a half or two years after my father's death when Simon Roi married my mother. I do not know the date of their marriage.

To cross-interrogatory 12. Ans. (I decline putting this question to the witness, and it is not propounded to her.

N. NILES,
Commissioner.)

To cross-interrogatory 13. Answer. The priest objected to the marriage, as Simon was her first husband's brother, and they were married by a justice of the peace. I knew them as man and wife when I was ten years old, when they were married by a justice of the peace. They did not live together before that time.

To cross-interrogatory 14. Answer. Angelique Roy was this child, and this question has been answered on my direct examination. This child died fifteen days after its father.

To cross-interrogatory 15. Answer. Angelique was eleven months old when she died. If the child referred to in this question was not Angelique, I do not know who it was.

her
MARIE ⋈ GENDRON.
mark.

State of Illinois, St. Clair County, *sct.*

I, Nathaniel Niles, county judge of St. Clair county, in said State, do hereby certify that the foregoing depositions of Mary Gendron was taken before me, at the residence of said Mary Gendron, in Cantine, in the American bottom, in said county, this 26th day of September, A.D. 1855; that at the said time and place the said deposition was sworn to and subscribed before me by the said witness Mary Gendron, the same having been reduced to writing by me, and the interrogatories and cross-interrogatories attached hereto and to the commission herein having been first propounded to said witness by me, and translated to her in French by the interpreter above named, except the 34th interrogatory of the plaintiffs, inadvertently, and the 12th cross-interrogatory of defendants, advertently omitted.

In witness whereof, I have hereunto set my hand, this 26th day of September, A.D. 1855.

NATHL. NILES.

Note by the Commissioner.

I consider the 12th cross-interrogatory addressed to Mary Gendron as unfit to be addressed to any woman, white or black, and of whatever character. Madame Gendron is a highly respectable French lady, with a grown daughter at her side during the examination.

N. NILES,
Commissioner.

Court ruled that the question ought to have been propounded, and plaintiff admitted that the question should be answered in the affirmative.

11. The deposition of Mary Gendron, taken June 19th, 1857, which is as follows:

Interrogatories to Mary Gendron.

1st. What is your name, age, residence, and occupation?

2d. Are you married or single? If married, how long have you been so, and to whom? When and where were you married? What is your husband's name? State whether you and he have lived together as husband and wife ever since your said marriage.

3d. Do you know anything further of benefit to the parties or either of them.

N. H. PURPLE,
Plaintiff's Attorney.

The deposition of Mary Gendron, taken before me, Theodore Engelmann, a notary public within and for the county of St. Clair and State of Illinois, by virtue of the dedimus potestatem or commission, and upon the interrogatories hereto annexed, to be read as evidence on behalf of the plaintiff in a certain cause now pending in the Circuit Court of the United States for the Northern District of Illinois, between William P. Bryant, plaintiff, and Richard Gregg, defendant.

(The witness being French, not sufficiently acquainted with the English language, Robert Forsyth was sworn to interpret from English into French and from French into English, according to his best understanding, skill, and ability, and the depositions were taken through him as interpreter.)

The witness being sworn to testify the truth in relation to the matter in controversy between the said parties, as far as she would be interrogated, in answer to the interrogatories to her proposed, deposes and says:

1. Answer to first interrogatory. My maiden name is Mary Roi. I am the wife of Touissant Gendron; we have been living together

all the time since married. I reside here in *Canteen*, in St. Clair county, Illinois.

I am forty-two years old.

2. Answer to second interrogatory. I am married twenty-eight years next December. My husband's name is Touissant Gendron. We have been living together since we got married.

3. Answer to third interrogatory. I do not know.

her
MARY ⋈ GENDRON.
mark.

State of Illinois, County of St. Clair, *sct.*

I, Theodore Engelmann, a notary public within and for the county of St. Clair and State of Illinois, hereby certify that the foregoing deposition of Mary Gendron were by me taken, on the nineteenth day of June, A.D. 1857, at the place of residence of the said deponent, in Canteen, in the county of St. Clair and State of Illinois, and that they were signed and sworn to by the said deponent; and I do further certify that I am not of counsel for either party to said suit.

In testimony whereof, I have hereunto signed my name and affixed my notarial seal, this 19th day of June, A.D. 1857.

[L. S.]

THEOD. ENGELMANN.

Filed July 7, 1857.

WM. H. BRADLEY,
Clerk.

12. A deed from Touissant Gendron and Mary Gendron, his wife, dated March 3, 1849, to Narcisse Pensoneau, which said deed is as follows:

Know all men by these presents, that Touissant Gendron and Marie, his wife, formerly Marie Roi, of the county of St. Clair and State of Illinois, only surviving heirs-at-law of Simon Roi, deceased, have, for and in consideration of the sum of fifty dollars, to us in hand paid, the receipt of which is hereby acknowledged, have granted, bargained and sold, and by these presence doth give, grant, bargain, and sell unto Narcisse Pensoneau, of the same county and State aforesaid, and to his heirs and assigns forever, all of the interest heretofore resived by the heirs of Simon Roi, which interest is one undivided fourth of the following tract or lot, situate in the city of Peoria, county of Peoria, State of Illinois, and more particularly described on the plat of the town of Peoria as surveyed in conformity with a report of Edward Coles, register of the land office at Edwardsville, Illinois, to the secretary of the treasury, on the 20th day of November, A.D. 1820, as lot No. Twenty-nine (29), containing about 80 feet

front by about 200 feet depth, which said lot the said Simon Roi was entitled to by virtue of the Confirmatory Act of Congress, approved 3d March, A. D. 1823.

To have and to hold the above one-fourth in and to the above-described lot unto him, the said Narcisse Pensoneau, his heirs and assigns, forever.

In testimony whereof we have hereunto set our hand and seal this 3d day March, A. D. 1849.

his
TOUISSINT ⋈ GENDRON. [SEAL.]
mark.

her
MARY ⋈ GENDRON. [SEAL.]
mark.

Done in presence of
FRS. LACROIX.

The words "formerly Mary Roi" interlined before signing.

State of Illinois, County of St. Clair.

I, Francis Lacroix, an acting justice of the peace of said county, do certify that Toussaint Gendron and Mary, his wife, whose signatures appears to the foregoing deed and who are personally known to me to be the persons described in and who executed the same, did severally acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned.

And the said Mary Gendron having been by me made acquainted with the contents of the said deed, and examined separate and apart from her said husband, did acknowledge that she had executed the same freely, voluntarily, and without compulsion of her said husband, and does not wish to retract, according to the true intent and meaning thereof and the acts Assembly in such case made and provided.

Given under my hand and seal, this fifth day of March, A. D. eighteen hundred and forty-nine.

FRANCIS LACROIX, [L. S.]
Justice of the Peace.

State of Illinois, County of St. Clair, *ss.*

I, William McClintock, clerk of the County Commissioners' Court of the county aforesaid, do hereby certify that Francis Lacroix, whose name is subscribed to the foregoing certificate of acknowledgment or instrument of writing, was at the time of signing the same (namely, the 5th day of March, A. D. 1849), an acting justice of the peace within and for the aforesaid county of St. Clair, regularly commissioned and qualified, and as such full faith and credit are due and of right ought to be given to all his official acts.

In witness whereof I hereunto subscribe my name and affix [L.S.] the seal of the aforesaid court, at office in Bellville, this 17th day of April, A. D. 1849.

WM. McCLINTOCK,
Clerk C. C. C. St. C. C.

State of Illinois, County of Peoria.

RECORDER'S OFFICE,
24th April, 1849.

I hereby certify this deed was filed in said office, on the date and above written and duly recorded in the said office, in book V., pages 38 and 39.

CHARLES KETTELLE,
R. P. Co.

13. A deed from Narcisse Pensoneau to John Rankin, dated April 23, 1849, which said deed, acknowledgment, and certificate of record, are as follows:

This indenture, made this 23d day of April, A. D. 1849, between Narcisse Pensoneau, of the county of St. Clair and State of Illinois, of the first part, and John Rankin, of Peoria in the same State, of the other part, witnesseth, that the said party of the first part, for and in consideration of the sum of three hundred and thirty-three dollars and thirty-three cents, paid by the said party of the second part, the receipt whereof is hereby acknowledged, hath granted, bargained and sold, and by these presents doth grant, bargain and sell unto the said party of the second part, and to his heirs and assigns, forever, all that certain tract of land described as follows, to wit:

The equal undivided one-fourth part of a certain lot containing twenty-seven thousand four hundred and fifty-nine square feet and seven-hundredths of a square foot, surveyed and designated as covered by said claim number twenty-nine, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey, approved 1 September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri; which said lot of land is more particularly described in a certain patent issued by the President of the United States to the legal representatives of Simon Roi and to their heirs, dated March 27th, 1847, to which said patent for greater certainty reference is hereby made.

To have and to hold the said premises unto the said John Rankin, and to his heirs and assigns, forever. And the said party of the first part doth, for himself and his heirs, covenant and agree to and with the said party of the second part, his heirs and assigns, that to the extent of the interest hereby conveyed, Touissant Gendron and

Mary Gendron, his wife, daughter of Simon Roi, mentioned and described in the said patent, are the only heirs and legal representatives of the said Simon Roi, in the said patent mentioned and described, he, the said party of the first part, claiming the right and interest hereby conveyed by deed from the said Touissant Gendron and Mary, his wife, by deed, dated March 3, 1849.

And further, that he will warrant and defend the same against the claims of all persons claiming through the said party of the first part and by or through the said Touissant Gendron and Mary, his wife, but against none others.

In testimony whereof, the said party of the first part has hereto set his hand and seal, the day and year first above written.

NARCISSE PENANEAU. [SEAL.]

Executed in presence of
"The United States" erased
before signing "by deed,"
N. H. PURPLE.

State of Illinois, Peoria County, ss.

This day personally come before the undersigned, clerk of the Circuit Court of said county, Narcisse Pensoneau, to me known personally to be the person who executed the foregoing deed, and acknowledged that he had executed the same for the uses and purposes therein expressed.

[L. S.] Witness my hand and official seal of said county, at Peoria, this 24th day of April, A. D. 1849.

JACOB GALE,
Clerk.

State of Illinois, County of Peoria.

RECORDER'S OFFICE.

I, Charles Kettele, recorder of said county, do hereby certify the foregoing deed is duly recorded in said office, in Book "V.," pages 40 and 41, this 24th April, 1849.

CHARLES KETTELE,
R. P. Co.

14. A deed from Touissant Gendron and Mary Gendron, his wife, to William C. Kinney, dated February 27, 1849, which, with the acknowledgment and certificate of record, is as follows:

Know all men by these presents, that Touissant Gendron and Marie, his wife (formerly Marie Roi), of the county of St. Clair, State of Illinois, heir-at-law of Simon Roi, deceased, for and in consideration of the sum of fifty dollars, to us in hand paid, the receipt of which is hereby acknowledged, heve remised, released, and quitclaimed unto

William C. Kinney, of the county of St. Clair and State of Illinois, and to his heirs and assigns, forever, the same interest, title, and claim I have, in and three-fourths heretofore conveyed, of the following described tract or lot of ground, situate in the city of Peoria, county of Peoria, State of Illinois, and described in the plat of the town of Peoria, as prepared and surveyed in conformity with a report of Edward Coles, register of the land office at Edwardsville, Illinois, to the secretary of the treasury, on the 10th day of November, A. D. 1820, and in obedience to the act of Congress, approved May 15, 1820, as lot No. twenty-nine (29), containing about 80 feet front by about 300 feet in depth, which said lot the said Simon Roi was entitled to, by virtue of the confirmatory act of Congress, approved March 3d, 1823.

To have and to hold the same to him and his assigns forever.

In witness whereof, I have hereunto set my hand and seal, this 27 day of February, A. D. 1849.

his
TOUSSAIN ⋈ GENDRON. [SEAL.]
mark.
her
MARY ⋈ GENDRON. [SLEA.]
mark.

Done in presence of
FRA. LACROIX.

State of Illinois, County of St. Clair.

I, Francois Lacroix, an acting justice of the peace of said county, do certify that Toussaint Gendron, and Mary, his wife, whose signatures appears to the foregoing deed, and who are personally known to me to be the persons described in and who executed the same, did severally acknowledge, that they had executed the said conveyance for the purposes and uses therein mentioned.

And the said Mary Gendron, having been by me made acquainted with the contents of the said deed, and examined separate and apart from her said husband, did acknowledge that she had executed the same freely, voluntarily, and without compulsion of her said husband, and does not wish to retract, according to the true intent and meaning thereof, and the acts of Assembly in such case made and provided.

Given under my hand and seal, this fifth day of March, A.D. eighteen hundred and forty-nine.

FRANCIS LACROIX, [L. S.]
Justice of the Peace.

The words "same," "three-fourths," "heretofore conveyed of," interlined before signing.

State of Illinois, County of St. Clair, *ss.*

I, William McClintock, clerk of the County Commissioner's Court of the aforesaid county, do hereby certify that Francois Lacroix, whose signature appears to the foregoing certificate of acknowledgment, was at the time of signing the same (namely, the 5th day of March, A. D. 1849), an acting justice of the peace within and for the said county of St. Clair, regularly commissioned and qualified, and as such, full faith and credit are due, and of right ought to be given to all his official acts.

In witness whereof I hereunto subscribe my name
[L. S.] and affix the seal of the aforesaid court, at office in Bellville, this 13th day of April, A. D. 1849.

WM. McCLINTOCK,
Clerk C. C. C. St. C. C.

RECORDER'S OFFICE,
PEORIA COUNTY, STATE OF ILLINOIS.

I certify the within deed was, this 24th day of April, A. D. 1849, duly filed in said office, and recorded in Book "V.," pages 39 and 40.

CHARLES KETTELE,
R. P. Co.

The defendant objected to the reading of this deed, but the court overruled the objection and admitted the evidence.

"15." A power of attorney from William C. Kinney and wife to Samuel B. Chandler, which is dated April 16th, 1849, and which, with the acknowledgment and certificate of record, is as follows:

Know all men by these presents, that we, William C. Kinney and Maria L. Kinney, wife of the said William C. Kinney, of the county of St. Clair and State of Illinois, have and do, by these presents, appoint Samuel B. Chandler, of the said county and State, our true and lawful attorney, to bargain and sell two certain lots in the city of Peoria, county of Peoria, State of Illinois, and as French lot or claim fifty-four, patented to the heirs of Antoine Georn Bois; also French lot or claim twenty-nine, patented to the legal representatives of Simon Roi. And also to make, execute, and acknowledge deed or deeds to the purchaser or purchasers, conveying to him or them all the right, title, and interest which he may have in and to the said lots, either at law or in equity, and the right of dower of the said Maria L. Kinney, as fully and absolutely as if we were personally present to sign and acknowledge the same.

In testimony whereof we have hereunto set our hands and affixed our seals this 16th day of April, A.D. 1849.

WILLIAM C. KINNEY. [SEAL.]
MARIA L. KINNEY. [SEAL.]

The words "fifty-four" interlined before the signing and acknowledging this instrument.

W. C. KINNEY.

Witness,
THEOD. ENGELMANN.

State of Illinois, St. Clair County, *ss.*

I, Theodore Engelmann, a notary public of the county of St. Clair, in the State of Illinois, duly commissioned and qualified, and residing in the town of Belville, in said county, do hereby certify, that William C. Kinney and Maria L. Kinney, the persons whose names are signed to the foregoing instrument of writing as having executed the same, are personally known to me, and that they appeared before me and severally acknowledged the same to be their act and deed for the purposes therein expressed.

The said Maria L. Kinney, wife of William C. Kinney, being by me first made acquainted with the contents thereof, and examined separately and apart from her said husband, whether she executed the said deed and relinquished her dower to the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of said husband, acknowledged and declared that she executed the said deed and relinquishes her dower in the said lands and tenements therein mentioned, voluntarily, freely, and without compulsion of said husband.

In testimony whereof I have hereunto signed my name and
[L. S.] affixed my notarial seal at office, this 16th day of April, A.D. 1849.

THEOD. ENGELMANN.

State of Illinois, County of Peoria.

RECORDER'S OFFICE.

I, Chas. Kettelle, recorder of said county, do hereby certify the within power of attorney is duly recorded in said office, in Book "V." pages 37 and 38, on this 24th day of April, A.D. 1849.

CHARLES KETTELLE,
R. P. Co.

"16." A deed from William C. Kinney and wife, by Samuel B. Chandler, their attorney, to John Rankin, dated April 23d, 1849, which, with the acknowledgment and certificate of record, is as follows:

This indenture, made this 23d day of April, A.D. 1849, between William C. Kinney and Maria L. Kinney, his wife, of Bellville, in the county of St. Clair, in the State of Illinois, of the first part, by their attorney in fact, Samuel B. Chandler, of the first part, and

John Rankin, of Peoria, in the county of Peoria, and State aforesaid, of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of four hundred dollars, in hand paid by the said party of the second part, the receipt of which is by the said party of the first part hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, and sell unto the said party of the second part, and to his heirs and assigns, the following described tract or parcel of land, to wit:

The undivided three-fourths parts of a certain lot containing 27,449 square feet and seven-hundredths of a square foot, surveyed and designated as covered by claim No. twenty-nine (29), in the south-west fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey, approved 1 September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri, which said lot of land is more particularly described in a certain patent, issued by the President of the United States to the legal representatives of Simon Roi, and to their heirs, dated March 27, 1847, to which said patent for greater certainty reference is hereby made.

To have and to hold the said premises unto the said John Rankin, and to his heirs and assigns, forever.

And the said party of the first part do, for themselves and their heirs, covenant and agree with the said party of the second part, his heirs and assigns, that to the extent of the interest hereby conveyed, Touissant Gendron, and Mary Gendron, his wife, daughter of Simon Roi, mentioned and described in said patent, are the only heirs and legal representatives of the said Simon Roi, in the said patent mentioned and described.

They, the said party of the first part, claiming the right and interest hereby conveyed by deed from the said Touissant Gendron, and Mary Gendron, his wife, dated February 27, 1849, and further, that they will warrant and defend the same against all persons claiming by or through the said parties of the first part, or by, through, or under the said Touissant Gendron, and Mary, his wife, but against none others.

In testimony whereof the said party of the first part have hereto, by their attorney aforesaid, set their hands and seals, this day and year aforesaid.

WILLIAM C. KINNEY, [SEAL.]
MARIA L. KINNEY, [SEAL.]
By their Attorney in fact,
SAMUEL B. CHANDLER. [SEAL.]

Executed in presence of
N. H. PURPLE.

State of Illinois, Peoria County.

This day personally appeared before the undersigned, clerk of the Circuit Court in and for said county, Samuel B. Chandler, attorney in fact of William C. Kinney and Maria L. Kinney, his wife, who was, by the oath of Narcisse Pensoneau, a credible witness, proved to me to be the person whose name, as such attorney fact, is subscribed to the foregoing deed, as on the part and behalf of his said principals, having executed the same, and acknowledged that he had, as such attorney in fact, for and on behalf of his said principals, executed the same for the uses and purposes therein expressed.

Witness my hand and the official seal of said court, at the [L. S.] county aforesaid, this 24th day of April, A.D. 1849.

JACOB GALE,
Clerk.

State of Illinois, County of Peoria.

RECORDER'S OFFICE.

I, Chas. Kettelle, recorder in and for said county, do hereby certify the within deed was filed in said office, on the 24th day of April, A.D. 1849.

CHARLES KETTELLE,
R. P. Co.

"17." A judgment in the Circuit Court of Peoria County, in favor of James Dougherty, administrator of John S. Bowers *v.* John Rankin and John T. Lindsay, with the execution issued thereon and the return on said execution, which are as follows:

Be it remembered, that on the twenty-first day of February, in the year of our Lord one thousand eight hundred and fifty-one, there was filed in the office of the clerk of the Circuit Court, within and for the county of Peoria in the State of Illinois, a precipe and declaration, which are in the words and figures following, to wit:

Precipe.

In Assumpsit. Damages $1000.

JAMES DOUGHERTY, administrator of the estate of John S. Bowers, deceased,
v.
JOHN RANKIN, JOHN T. LINDSAY.

Peoria Circuit Court to March Term, A.D. 1851.

The clerk of said court will please issue summons in above cause, returnable to said term, &c.

H. O. & A. L. MERRIMAN.

Declaration.

State of Illinois, County of Peoria, *ss.*

In the Circuit Court of Peoria County, Ills., of the March Term, A.D. 1851.

James Dougherty, administrator of all and singular the goods and chattels, rights and credits, which were of John S. Bowers, deceased, who died intestate, plaintiff in this suit, complains of John Rankin and John T. Lindsay, of a plea of trespass on the case upon promises.

For that whereas, the said defendants heretofore, to wit, on the eleventh day of January, in the year of our Lord one thousand eight hundred and fifty, at Peoria, to wit, at the county of Peoria aforesaid, executed and delivered to plaintiff their certain promissory note in writing, bearing date the day and year aforesaid, and thereby then and there promised to pay to plaintiff, or order, the sum of seven hundred dollars, for value received, without defalcation, twelve months after the date thereof, and in consideration thereof, afterwards, to wit, on the day and year aforesaid, at the county aforesaid, said defendants faithfully undertook and promised to pay plaintiff the money in said note, specified according to the tenor and effect thereof. And said plaintiff avers, that the time mentioned in said note for the payment of the same has long since elapsed, and the same was due and payable before the commencement of this suit, and remains wholly unpaid.

Also, for that whereas, said defendants were indebted unto plaintiff heretofore, to wit, on the first day of February, A.D. 1851, at the county of Peoria aforesaid, in the sum of one thousand dollars, for the price and value of lands and real estate before then sold and conveyed unto them by plaintiff, at the request of defendants. Also, for the price and value of goods, wares, and merchandise before then sold and delivered by plaintiff to defendants at their like request.

Also, for so much money before then lent and advanced to, and paid, laid out, and expended for defendants at their request by plaintiff.

Also, for so much money before then had and received by defendants for the use of plaintiff; also, for interest on divers large sums of money by plaintiff lent and forborne to defendants, for divers long spaces of time before then elapsed. Also, for so much money found to be due plaintiff from defendants, upon an accounting had between them; and being so indebted, said defendants then and there promised to pay the said money in this count specified to plaintiff, upon request.

Yet to pay the said moneys in this declaration mentioned, or any part thereof, although often requested so to do, said defendants have

hitherto wholly neglected, and refuse, and still do refuse, to the damage of plaintiff of one thousand dollars, and therefore he sues, &c.

And the said plaintiff brings here into court the letters of administration of the estate of said John S. Bowers, deceased, granted by the County Court of Peoria County aforesaid, which give sufficient evidence to the court of the grant of administration to the said plaintiff as aforesaid.

H. O. & A. L. MERRIMAN,
Plaintiffs' Attorneys.

And on the same 21st day of February, A.D. 1851, the clerk of said court issued, under the seal of said court, a summons in said cause, directed to the sheriff of Peoria county, Illinois, to execute, which is in the words and figures following, to wit:

Summons.

The People of the State of Illinois to the Sheriff of Peoria County, greeting:

We command you to summon John Rankin and John T. Lindsay, if they may be found in your county, to appear before our Circuit Court, on the first day of the term thereof, to be held at Peoria, within and for the said county of Peoria, on the first Monday of March next, then and there in our said court to answer unto James Dougherty, administrator of the estate of John S. Bowers, deceased, of a plea of trespass on the case on promises, to his damage one thousand dollars, as he says, and make return of this writ, with an indorsement of the time and manner of serving the same, on or before the first day of the term of the said court, to be held as aforesaid.

Witness, Jacob Gale, clerk of our said court, and the seal thereof, at Peoria, this 21st day of February, in the year of our [SEAL.] Lord one thousand eight hundred and fifty-one.

JACOB GALE,
Clerk.

Which summons was returned to said clerk's office, with the said sheriff's return thereto indorsed thereon, in the words and figures following, to wit:

Sheriff's Return.

State of Illinois, Peoria County, *ss.*

By virtue of this writ, to me directed, I have summoned the within-named John Rankin and John T. Lindsay to appear at the day and place within-mentioned, to answer as by said writ they are required, and as within I am commanded.

JAMES L. RIGGS,
Sheriff Peoria Co.

And afterwards, on the 24th day of February, A.D. 1851, the defendants filed a plea in said cause, in said clerk's office, which, with the similiter thereto thereunder written, is in the words and figures following, to wit:

"*Plea.*"

JOHN RANKIN, JOHN T. LINDSAY,
v.
JAMES DOUGHERTY, adm'r, &c.

And the said defendants, by their attorney, comes and defends the wrong and injury, when, &c.; and saith, that they did not undertake or promise in manner and form as the said plaintiff hath above thereof complained against them, and of this they put themselves upon the country.

JOHN T. LINDSAY,
Attorney.

"*Similiter.*"

And said plaintiff doth the like, &c.

H. O. & A. L. MERRIMAN,
Plaintiff's Attorney.

Final Proceedings and Judgment.

Proceedings at a Circuit Court, began and held at the court-house, in the city of Peoria, in and for the county of Peoria, in the State of Illinois, on the third Monday of August, in the year of our Lord one thousand eight hundred and fifty-one, it being the eighteenth day of said month. Present, the Honorable William Kellogg, judge of the Tenth Judicial Circuit, in said State, to wit: Wednesday, August 27th, A.D. 1851.

Assumpsit.

JAMES DOUGHERTY, administrator of the estate of JOHN S. BOWERS, deceased,
v.
JOHN RANKIN, JOHN T. LINDSAY.

This day come the plaintiff, by Merriman, his attorney; and the defendant, John T. Lindsay, for himself, and as attorney for the defendant, John Rankin, withdrew the plea of the defendants filed in this cause, and all further appearance to this action; and now, the defendants being three times solemnly called, came not, but make default. Wherefore, it is considered by the court, that the plaintiff ought to recover of the defendant his damages by him sustained by

reason of the premises; but because the court know not what damages the plaintiff has sustained, and it appearing that this action is brought upon an instrument in writing for the payment of money only, the clerk is directed to make an assessment thereof and report the same to the court, which is accordingly done and reported to the court at the sum of seven hundred and twenty-six dollars and thirty-six cents, which report is approved by the court. Therefore, it is considered, that the said James Dougherty, administrator of the estate of John S. Bowers, deceased, have and recover of the said John Rankin and John T. Lindsay the sum of seven hundred and twenty-six dollars and thirty-six cents, his damages aforesaid, in form aforesaid assessed, together with his costs and charges by him about his suit in this behalf expended, and that he have execution therefor.

State of Illinois, Peoria County, *ss.*

I, Jacob Gale, clerk of the Circuit Court within and for the county of Peoria, in the State of Illinois, do hereby certify, that the foregoing is a full and correct copy of the precipe, declaration, summons, sheriff's return indorsed on summons, plea, and similiter thereto, and of the final proceedings and judgment of said Circuit Court in a certain cause therein of James Dougherty, administrator of the estate of John S. Bowers, deceased, plaintiff, against John Rankin and John T. Lindsay, defendants, as the same are on file and of record in my office.

In witness whereof, I hereto set my hand, and affix the seal of said Circuit Court, at my office, in Peoria, this six-
[L. S.] teenth day of July, in the year of our Lord one thousand eight hundred and fifty-five.

JACOB GALE,
Clerk.

The People of the State of Illinois, to the Sheriff of Peoria County, greeting:

Whereas, by the consideration of our Circuit Court held at Peoria, in and for the county of Peoria, on the twenty-seventh day of August, in the year of our Lord one thousand eight hundred and fifty-one, James Dougherty, administrator of the estate of John S. Bowers, deceased, recovered judgment against John Rankin and John T. Lindsay for the sum of seven hundred and twenty-six dollars and thirty-six cents damages, which the said James Dougherty, administrator as aforesaid, had sustained by reason of the non-performance of certain promises made to him by the said John Rankin and John T. Lindsay; and also for the further sum of five dollars and ten cents, cost of suit, as appears of record.

We therefore command you, as we have heretofore commanded you, that of the goods and chattels, lands and tenements of the said

John Rankin and John T. Lindsay, you cause to be made the aforesaid sums of money, together with interest on said judgment at the rate of six per centum per annum from the time of recovering the same as aforesaid until paid, as well as the further sum of nine dollars and sixty cents, additional accruing costs; and that you have the same ready as soon as may be, to render unto the said James Dougherty, administrator of the estate of John S. Bowers, deceased, according to law.

Hereof fail not, and make return of this writ, with your doings, ninety days after the date hereof.

Witness Jacob Gale, clerk of our said court, and the seal thereof, at Peoria, this first day of November, in the [L. S.] year of our Lord one thousand eight hundred and fifty-one.

JACOB GALE,
Clerk.

State of Illinois, Peoria County, *ss.*

By virtue of this writ, to me directed from the clerk of the Circuit Court of Peoria County, I did, this 1st day of November, A.D. 1851, levy upon the following described real estate, to wit:

The lot containing twenty-seven thousand four hundred and forty-nine square feet and seven-hundredths of a square foot, surveyed and designated as covered said claim number twenty-nine, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, according to the survey, approved 1st September, A.D. 1840, by the surveyor of public lands in the States of Illinois and Missouri, and more particularly described in a certain patent, issued by the President of the United States to the legal representatives of Simon Roi and their heirs, dated March 27th, 1847.

Also the undivided half part of lot in the village of Peoria in the State of Illinois, containing twenty-seven thousand four hundred and forty-nine (49) square feet and seven-hundredths of a square foot, surveyed and designated as covered by claim number thirty-three (33) in the southwest fractional quarter of section nine, in township eight north, of range No. eight east, of the fourth principal meridian, Illinois, according to the survey, approved first September, 1840, by the surveyor of public lands in the States of Illinois and Missouri.

Also the undivided half of lots numbered two (2) and four (4) in block numbered eighteen (18) in town, now city of Peoria, county of Peoria, State aforesaid.

Also all the right, title, and interest of John Rankin in a lot containing $27{,}449\frac{7}{100}$ square feet, surveyed and designated as covered by claim number fifty-four (54) in the northeast and southeast quarter of fractional section nine (9), in township 8 north, of range eight (8) east, of the fourth principal meridian, Illinois, according to the sur-

vey, approved 1st September, 1840, by the surveyor of public lands in the States of Illinois and Missouri, which said lot of land is particularly described in a certain patent, issued by the President of the United States unto the heirs or legal representatives of Antoine Grand Bois, and to their heirs, dated March 27th, 1847, and afterwards I advertised said property for sale, on the seventh day of February, A. D. 1852, at the door of the court-house in said county, by putting up printed notices of said sale in three of the most public places in my county more than twenty days previous to the day of said sale.

And aftewards, to wit, on the 7th day of February aforesaid, I attended at the time and place of said sale and offered the whole of said property at public vendue. Whereupon A. G. Curtenius bid for the said lot, containing $27,449\frac{7}{100}$ square feet, as covered by claim fifty-four (54), and more particularly described above, the sum of one hundred and fifty-five dollars, which being the highest and best bid, the said lot was struck off to him at that price, and a certificate of purchase delivered to the purchaser, and a duplicate copy thereof filed in the recorder's office of said county; and afterwards, to wit, on the 16th day of March, A. D. 1852, I advertised all the above-described property (except said claim number fifty-four (54), for sale at the door of the court-house in said county, on the 10th day of April, A. D. 1852, by putting up printed notices of said sale in three of the most public places in my county; and afterwards, to wit, on the said 10th day of April aforesaid, at two o'clock P. M. of said day, I attended at the place of sale and offered the whole of said property at public vendue, whereupon James Dongherty bid for the said claim No. twenty-nine, as above described, the sum of two hundred and fifty dollars, and for said claim No. thirty-three (33), as above described, the sum of fifty dollars, and for said undivided half of lots No. two and four, in block No. eighteen, the sum of six dollars, which being the highest and best bid, the tracts of land were severally struck off to him at that price, and a certificate of purchase delivered to the purchaser, and a duplicate copy thereof filed in the recorder's office of said county.

JAMES L. RIGGS,
Sheriff.
By D. D. IRWIN,
Deputy.

State of Illinois, Peoria County, *ss*.

I, Jacob Gale, clerk of the Circuit Court in and for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is a full and correct copy of an alias execution or writ of fieri facias issued by the clerk of said court under the seal thereof, on a judgment rendered in said court in favor of James Dougherty, administrator of the estate of John S. Bowers, deceased, against John Ran-

kin and John T. Lindsay, and of the return of the sheriff of said county thereto indorsed thereon, as the same remain on file in my office.

In witness whereof, I hereto set my hand and affix the seal [L. S.] of said court at my office in Peoria, this twenty-second day of May, A. D. 1854.

JACOB GALE,
Clerk.

The defendant objected to the introduction of the same; the court overruled the objection and admitted the evidence.

"18." A deed from the sheriff of Peoria county to William P. Bryant, the plaintiff, dated 3 Dec. 1853, which is as follows:

Whereas, James Dougherty, administrator of the estate of John S. Bowers, did at the August term, A. D. 1851, of the Circuit Court for the County of Peoria, and State of Illinois, recovered a judgment against John Rankins and John P. Lindsay for the sum of seven hundred twenty-six dollars and thirty-six cents and costs of suit, upon which judgment an execution was issued, dated on the first day of November, A. D. 1851, directed to James L. Riggs, sheriff of Peoria county, to execute, and by virtue of said execution the said sheriff levied upon the lands hereinafter described, and the same were struck off and sold to James Dougherty, he being the highest and best bidder therefor, and the time and place of the sales thereof having been duly advertised according to law, and the said James Dougherty having assigned the certificate of purchase thereof to William P. Bryant, of Rockville, Indiana,

Now therefore, know all by this deed, that I, Leonard B. Cornwell, sheriff of said county of Peoria, successor of James L. Riggs, in consideration of the premises, have granted, bargained, and sold, and do hereby convey to the said William P. Bryant, his heirs and assigns, the following described tract of land, to wit:

A lot containing $27{,}449\frac{7}{100}$ square feet, surveyed, designated as covered by claim No. twenty-nine, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois; more particularly described in a certain patent, issued by the President of the United States to the legal representatives of Simon Roi, and their heirs, dated March 27th, 1847.

To have and to hold the said described premises, with all the appurtenances thereto belonging, to the said William P. Bryant, his heirs and assigns, forever.

Witness my hand and seal this the second day of December, in the year of our Lord one thousand eight hundred and fifty-three.

LEONARD B. CORNWELL, [SEAL.]
Sheriff of Peoria County, Illinois.

State of Illinois, Peoria County, *ss.*

This day personally appeared before me, Jacob Gale, clerk of the Circuit Court within and for said county, Leonard B. Cornwell, sheriff of said county, personally known to me to be the real person whose name appears subscribed to the above deed of conveyance, as having executed the same as sheriff of said county, and acknowledged the execution thereof to be his free act and deed, for the uses and purposes and in the capacity therein set forth.

In testimony whereof, I have hereunto set my hand and the seal of said court, at Peoria, this third day of December, A.D. 1853.

[L. S.]

JACOB GALE,
Clerk.

"19." The record and decree of the Circuit Court of Peoria County in chancery, of a suit of William P. Bryant, complainant, and Touissaint Gendron and Mary Gendron, defendants, which said record and decree is as follows:

Be it remembered, that heretofore, to wit, on the twenty-fourth day of May, in the year of our Lord one thousand eight hundred and fifty-four, there was filed in the office of the clerk of the Circuit Court in and for the County of Peoria, in the State of Illinois, a bill in chancery, and exhibits thereto attached, which are in the words and figures following, to wit:

Bill.

In the Circuit Court of the County of Peoria, Illinois, September Term, 1854.

State of Illinois, Peoria County, *ss.*

To the Hon. Onslow Peters, judge of the said court:

Humbly complaining, showeth unto your honor, your orator William P. Bryant, that on the 27th day of March, A.D. 1847, under and by virtue of an act of Congress, approved March 3d, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois;" which act is referred to and made part of this bill; a patent was in due form of law issued by the President of the United States to the legal representatives of Simon Roi and to their heirs, described in said patent as being "the lot containing twenty-seven thousand four hundred and forty-nine square feet and seven hundredths of a square foot, surveyed and designated as covered by said claim number twenty-nine, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey, approved 1st September, A.D. 1840, by the surveyor

of public lands in the States of Illinois and Missouri," as by reference to said patent, a copy whereof is herewith filed and made part of this bill, will fully appear.

The original your orator will produce upon the hearing of this cause, whereby the legal title to the said lot of land became and was vested in the said legal representatives of the said Simon Roi.

And your orator further charges, that on and before the 27th day of February, A.D. 1849, one Mary Gendron, wife of Touissaint Gendron, at the county of St. Clair, in the State of Illinois, was the owner in fee simple of three undivided one-fourth parts of the said lot or tract of land before described; and that at the time of the issuing of said patent, and for several years previous thereto, she was, and still is, the sole heir at law and only legal representative of the said Simon Roi.

That on the 27th day of February, A.D. 1849, she, together with her husband Touissaint Gendron, made, executed, and delivered unto William C. Kinney, of said St. Clair county, a deed, release, and quitclaim; a copy whereof, marked "B.," hereto attached, is made part of this bill. The original will be produced upon the hearing of this cause.

And your orator further charges, that at the time of making the said deed, it was the design and intention of the parties to the same to convey to the said William C. Kinney the equal, undivided three fourths of the lot of land before in this bill and in said deed described, to wit:

Lot No. (29) in the village of Peoria aforesaid; and that if the said deed does not in terms, or in legal signification, convey such interest in said lot, it was an error and mistake in the draftsman who wrote said deed, as all the parties intended, supposed, and understood that the said deed did in fact convey such interest aforesaid.

And your orator further shows, that on the 23d day of April, A.D. 1849, the said William C. Kinney and Maria L. Kinney, his wife, by their attorney in fact, Samuel B. Chandler, by their deed of that date, conveyed the same undivided three-fourths of the said lot of land to John Rankin, as by reference to their deed of that date, a copy whereof is herewith filed and made part of this bill, will appear; said copy is marked "C." The original, your orator will produce upon the hearing of this cause.

And your orator further shows, that on the August term, A.D. 1851, of the Circuit Court of Peoria County, James Dougherty, administrator of the estate of John S. Bowers, deceased, recovered a judgment for the sum of seven hundred and twenty-six dollars and thirty-six cents, and costs of suit, against the above-named John Rankin and John T. Lindsay; upon which said judgment execution was in due form of law issued on the first day of November, A.D. 1851, which was fully levied upon the lot of land before described as

the property of the said John Rankin; and the same lot of land was afterwards, in due form of law, under said execution, struck off and sold to the said James Dougherty, who afterwards, and in due form of law, sold and assigned his certificate of the purchase of the same to your orator.

A copy of the said judgment, execution, and sheriff's return aforesaid, are herewith filed, marked "D.," and made part of this bill.

And your orator further charges, that on the 2d day of December, A.D. 1853, Leonard B. Cornwell, sheriff of the county of Peoria, under and by virtue of the sale aforesaid, on the execution aforesaid, by his deed of the date aforesaid (the said premises being and remaining wholly unredeemed), convey the same to your orator as assignee of the said James Dougherty, by reason whereof your orator has become and is the legal and equitable owner of all the interest and title which the said John Rankin had in and to the premises aforesaid at the time of the rendition of the judgment, and the sale and execution as aforesaid. A copy of said deed is hereto attached, marked "E., and made part of this bill. The original, your orator will produce upon the hearing of this cause.

And your orator further charges, that he has caused repeated applications to be made to the said Touissaint Gendron and Mary Gendron, his wife, to correct the said deed, by making and delivering a new one, either to your orator or the said William Kinney, therein conveying the said undivided three-fourths of said premises in manner and form as was intended and designed to have been done, in the said deed of 27th February, 1849, to the said William C. Kinney, at the cost and charges of your orator, and without any cost or expense to the said Touissaint Gendron and Mary, his wife, or either of them; which said reasonable request they have uniformly refused to comply with, and refuse to correct said mistake in said deed, and threaten to sell said premises to some other person or persons, to the great wrong, injury, and prejudice of your orator in the premises, all which is contrary to equity and good conscience, and tends to the wrong and injury of your orator.

Forasmuch then as your orator is remediless in the premises in an action at law, and can only have relief in equity, &c., he prays that said Touissaint Gendron and Mary Gendron, his wife, may be made defendants to this bill, and compelled to answer the same, but not under oath, which is hereby waived. That upon the hearing of this cause a decree may be entered requiring said defendants to correct the mistake in said deed of the 27th February, 1849, either by making a new deed to said Kinney or to your orator, particularly describing and specifying the said land intended to have been conveyed by said deed, or in such other manner as to your honor shall seem just and equitable, and that he may have such other and further relief as to justice and equity appertain. He prays also for the

usual process of subpœna against the said defendants, to be directed to the sheriff of the county of St. Clair, and he will pray, &c.

PURPLE,
For Complainant.

Exhibits Attached.

The United States of America.

To all to whom these presents shall come, greeting:

Whereas, there has been deposited in the General Land Office a certificate numbered twenty-two, of the register and receiver of the land office at Edwardsville, Illinois, whereby it appears that in the report dated 10th November, 1820, of Edward Cole's register of the land office at Edwardsville, Illinois, the claim of Simon Roi, in right of his wife, the late widow of Charles Le Doux, deceased, is entered as number twenty-nine, the said Roi being also entitled by virtue of his own settlement and cultivation; and whereas, it further appears from the certificate aforesaid, that the said Charles Le Doux is the inhabitant or settler within the purview of the confirmatory act of Congress, approved 3d March, 1823, entitled "An act to confirm certain claim to lots in the village of Peoria, in the State of Illinois," and that it has appeared to the satisfaction of said register and receiver, that neither the said Charles Le Doux nor the said Simon Roi did, prior to the said act of 3d March, 1823, receive "a confirmation of claims, or donation of any tract of land or village lot from the United States," and that the legal representatives of the said Simon Roi, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot which is described as follows, to wit:

The lot containing twenty-seven thousand four hundred and forty-nine square feet and seven hundredths of a square foot, surveyed and designated as covered by said claim number twenty-nine, in the south-west fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey, approved 1st September, 1840, by the surveyor of public lands in the States of Illinois and Missouri; and whereas, in the confirmatory act aforesaid, of the 3d March, 1823, it is provided, that "nothing in this act contained shall be so construed as to affect the right, if any such there be, of any other person or persons to the said lots, or any part of them, derived from the United States, or any other source whatever," &c.

Now, know ye, that in consideration of the premises, and pursuant to the second section of the act aforesaid of the 3d March, 1823, there is granted by the United States unto the legal representatives of the said Simon Roi, and to their hers, subject to the proviso aforesaid, the lot of land above described.

To have and to hold the same lot of land, with the appurtenances,

unto the said legal representatives of Simon Roi, and to their heirs and assigns, forever, subject to the proviso aforesaid.

In testimony whereof, I, James K. Polk, President of the United States, have caused the letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the twenty-seventh day of March, in the year of our Lord [SEAL.] one thousand eight hundred and forty-seven, and of the independence of the United States the seventy-first.

By the President. JAMES K. POLK.

By J. KNOX WALKER,
Secretary.

Know all men by these presents, that Touissaint Gendron and Maria, his wife (formerly Maria Roi), of the county of St. Clair, State of Illinois, heirs at law of Simon Roi, deceased, for and in consideration of the sum of fifty dollars, to us in hand paid, the receipt of which is hereby acknowledged, have remised, released, and quitclaimed unto William C. Kinney, of the county of St. Clair, and State of Illinois, and to his heirs and assigns, forever, the same interest, title, and claim, I have in, and three-fourths heretofore conveyed of the following described tract or lot of ground, situated in the city of Peoria, county of Peoria, State of Illinois, and described on the plat of the town of Peoria, as prepared and surveyed in conformity with a report of Edward Coles, register of the land office, at Edwardsville, Illinois, to the secretary of the treasury, on the 10th day of November, A.D. 1820, and in obedience to the act of Congress, approved May 15th, 1820, as lot No. twenty-nine (29), containing about 80 feet front, by about 300 feet in depth, which said lot the said Simon Roi was entitled to by virtue of the confirmatory act of Congress, approved March 3d, 1823.

To have and to hold the same to him and his assigns, forever.

In witness whereof, I have hereunto set my hand and seal, this 27th day of February, A.D. 1849.

his
TOUSSAINT ⋈ GENDRON. [SEAL.]
mark.

her
MARY ⋈ GENDRON. [SEAL.]
mark.

Done in presence of

This indentnre, made this 23d day of April, 1849, between William C. Kinney and Maria L. Kinney, his wife, of Bellville, in the county of St. Clair, in the State of Illinois, of the first part, by their attorney in fact, Samuel C. Chander, of the first part, and John

Rankin, of Peoria, in the county of Peoria, and State aforesaid, of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of four hundred dollars, in hand paid by the said party of the second part, the receipt of which is by the said party of the first part hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, and sell unto the said party of the second part, and to his heirs and assigns, the following described tract or parcel of land, to wit:

The undivided three-fourths parts of a certain lot containing 27,449 square feet and seven hundredths of a square foot, surveyed and designated as covered by claim No. twenty-nine (29), in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey, approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri, which said lot of land is more particularly described in a certain patent, issued by the President of the United States to the legal representatives of Simon Roi, and to their heirs, dated March 27, 1847, to which said patent for greater certainty reference is hereby made.

To have and to hold the said premises unto the said John Rankin, and to his heirs and assigns, forever. And the said party of the first part do, for themselves and their heirs, covenant and agree with the said party of the second part, his heirs and assigns, that to the extent of the interest hereby conveyed, Touissaint Gendron and Mary Gendron, his wife, daughter of Simon Roi, mentioned and described in said patent, are the only heirs and legal representatives of the said Simon Roi, in the said patent mentioned and described. They, the said party of the first part, claiming the right and interest hereby conveyed by deed, from the said Touissaint Gendron and Mary Gendron, his wife, dated February 27, 1849, and further, that they will warrant and defend the same against all persons claiming by or through the said parties of the first part, or by through or under the said Touissant Gendron and Mary, his wife, but against none others.

In testimony whereof, the said parties of the first part have hereunto, by their attorney aforesaid, set their hands and seals, this day and year aforesaid.

WILLIAM C. KINNEY. [SEAL.]
MARIA L. KINNEY. [SEAL.]
By their attorney in fact,
SAMUEL B. CHANDLER. [SEAL.]

Executed in presence of,
N. H. PURPLE.

JAMES DOUGHERTY, administrator of the estate of JOHN S. BOWERS,
v.
JOHN RANKIN AND JOHN T. LINDSAY.
} Assumpsit.

This day came the plaintiff by Merriman, his attorney, and the defendant John T. Lindsay, for himself, and as attorney for the defendant John Rankin, withdrew the plea of the defendants filed in this cause, and all further appearance to this action. And now the said defendants, being three times solemnly called, came not, but made default, wherefore it is considered by the court that the plaintiff ought to recover of the defendants his damages by him sustained by reason of the premises, but because the court knows not what damages the plaintiff has sustained, and it appearing that this action is brought upon an instrument in writing for the payment of money, the clerk is directed to make an assessment thereof and report the same to the court, which is accordingly done and reported to the court at the sum of seven hundred and twenty-six dollars and thirty-six cents, which report is approved by the court.

Therefore it is considered that the said James Dougherty, administrator of the estate of John S. Bowers, deceased, have and recover of the said John Rankin and John T. Lindsay, the sum of seven hundred and twenty-six dollars and thirty-six cents, his damages aforesaid, in form aforesaid assessed, together with his costs and charges by him about his suit in this behalf expended, and that he have execution therefor.

The People of the State of Illinois, to the Sheriff of Peoria County, greeting.

Whereas by the consideration of our Circuit Court held at Peoria, in and for the county of Peoria, on the twenty-seventh day of August, in the year of our Lord one thousand eight hundred and fifty-one, James Dougherty, administrator of the estate of John S. Bowers, deceased, recovered judgment against John Rankin and John T. Lindsay, for the sum of seven hundred and twenty-six dollars and thirty-six cents damages, which the said James Dougherty, administrator as aforesaid, had sustained by reason of the nonperformance of certain promises made to him by the said John Rankin and John T. Lindsay, and also for the further sum of five dollars and ten cents as appears of record.

We therefore command you as we have heretofore commanded you, that of the goods and chattels, lands and tenements, of the said John Rankin and John T. Lindsay, you cause to be made the aforesaid sums of money, together with interest on said judgment at the rate of six per centum per annum, from the time of recovering the same as aforesaid, until paid, as well as the further sum of nine dollars and sixty cents, additional accruing costs, and that you have the same

ready as soon as may be, to render unto the said James Dougherty, administrator of the estate of John S. Bowers, deceased, according to law. Hereof fail not, and make return of this writ with your doings, ninety days after the date hereof.

Witness, Jacob Gale, clerk of our said court, and the seal [SEAL.] thereof, at Peoria, this first day of November, in the year of our Lord one thousand eight hundred and fifty-one.

JACOB GALE,
Clerk.

State of Illinois, Peoria County, *ss.*

By virtue of this writ, to me directed, from the clerk of the Circuit Court of Peoria county, I did, this 1st day of November, A.D. 1851, levy upon the following described real estate, to wit:

The lot, containing twenty-seven thousand four hundred and forty-nine square feet, and seven-hundredths of a square foot, surveyed and designated as covered said claim, number twenty-nine, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, according to the survey, approved 1st September, A.D. 1840, by the surveyor of public lands in the States of Illinois and Missouri, and more particularly described in a certain patent issued by the President of the United States to the legal representatives of Simon Roi and their heirs, dated March 27th, 1847.

Also the undivided half part of a lot in the village of Peoria, in the State of Illinois, containing twenty-seven thousand four hundred and forty-nine (49) square feet, and seven-hundredths of a square foot, surveyed and designated as covered by claim number thirty-three (33), in the southwest fractional quarter of section nine, in township eight north, of range No. eight east, of the fourth principal meridian, Illinois, according to the survey, approved first Sept. 1840, by the surveyor of public lands in the States of Illinois and Missouri. Also the undivided half of lots number two (2) and four (4), in block number eighteen (18), in the town, now city of Peoria, county of Peoria, State aforesaid. Also, all the right, title, and interest of John Rankin in a lot containing $27{,}449\frac{7}{10}$ square feet, surveyed and designated as covered by claim number fifty-four (54), in the northeast and southeast quarter of fractional section nine (9), in township eight (8) north, of range eight (8), east of the fourth principal meridian, Illinois, according to the survey, approved 1st September, 1840, by the surveyor of public lands in the States of Illinois and Missouri, which said lot of land is particularly described in a certain patent issued by the President of the United States unto the heirs or legal representatives of Antoine Grand Bois, and to their heirs, dated March 27th, 1847; and afterwards I advertised said property for sale, on the seventh day of February, A.D. 1852, at the door of the court-house in said county, by putting up printed notices of said sale in three of

the most public places in my county, more than twenty days previous to the day of said sale; and afterwards, to wit, on the seventh day of February aforesaid, I attended at the time and place of said sale, and offered the whole of said property at public vendue: whereupon A. G. Curtenius bid for the said lot, containing $27,449\frac{7}{100}$ square feet, as covered by claim fifty-four (54), and more particularly described above, the sum of one hundred and fifty dollars, which being the highest and best bid, the said lot was struck off to him at that price, and a certificate of purchase delivered to the purchaser, and a duplicate copy thereof filed in the recorder's office of said county; and afterwards, to wit, on the 16th day of March, A.D. 1852, I advertised all the above described property (except said claim, number fifty-four 54), for sale, at the door of the court-house in said county, on the 10th day of April, A.D. 1852, by putting up printed notices of said sale in three of the most public places in my county; and afterwards, to wit, on the 10th day of April aforesaid, at two o'clock P.M. of said day, I attended at the place of sale, and offered the whole of said property at public vendue. Whereupon James Dougherty bid for the said claim, number twenty-nine, as above described, the sum of two hundred and fifty dollars; and for said claim, No. thirty-three (33), as above described, the sum of fifty; and for said undivided half of lots, No. two and four, in block No. eighteen, the sum of six dollars, which being the highest and best bid, the tracts of land were severally struck off to him at that price, and a certificate of purchase delivered to the purchaser, and a duplicate copy filed in the recorder's office of said county.

JAMES L. RIGGS,
Sheriff.
By D. D. IRONS,
Deputy.

Whereas, James Dougherty, administrator of the estate of John S. Bowers, did, at the August term, A.D. 1851, at the Circuit Court for the County of Peoria and State of Illinois, recovered a judgment against John Rankin and John T. Lindsay, for the sum of seven hundred twenty-six dollars and thirty-six cents, and costs of suit; upon which judgment and execution was issued, dated on the first day of November, A.D. 1851, directed to James S. Riggs, sheriff of Peoria county, to execute; and by virtue of said execution, the sheriff levied upon the lands hereinafter described, and the same were struck off and sold to James Dougherty, he being the highest and best bidder therefor, and the time and place of the sales thereof having been duly advertised according to law. And the said James Dougherty having assigned the certificate of purchase thereof to William P. Bryant, of Rockville, Indiana.

Now, therefore, know all men by this deed, that I, Leonard B. Cornwell, sheriff of said county of Peoria, successor of James L.

Riggs, in consideration of the premises, have granted, bargained, and sold, and do hereby convey to the said William P. Bryant, his heirs and assigns, the following described tract of land, to wit:

A lot, containing $27{,}449\frac{7}{100}$ square feet, surveyed, designated as covered by claim No. twenty-nine, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, more particularly described in a certain patent issued by the President of the United States to the legal representatives of Simon Roi, and their heirs. Dated March 27th, 1847.

To have and to hold the said described premises, with all the appurtenances thereto belonging, to the said William P. Bryant, his heirs and assigns, forever.

Witness my hand and seal, this the second day of December, in the year of our Lord one thousand eight hundred and fifty-three.

LEONARD B. CORNWELL, [SEAL.]
Sheriff, Peoria County, Ill.

State of Illinois, Peoria County, *ss.*

This day personally appeared before me, Jacob Gale, clerk of the Circuit Court, within and for said county, Leonard B. Cornwell, sheriff of said county, personally known to me to be the real person whose name appears subscribed to the above deed of conveyance, as having executed the same as sheriff of said county, and acknowledged the execution thereof to be his free act and deed, for the uses and purposes, and in the capacity therein set forth.

In testimony whereof, I have hereunto set my hand and the seal of said court, at Peoria, this third day of December, A.D. 1853.

JACOB GALE,
Clerk.

Proceedings in chancery before the Circuit Court, at a term thereof begun and held at the court-house, in the city of Peoria, in and for the county of Peoria, in the State of Illinois, on Monday, the fifth day of March, in the year of our Lord one thousand eight hundred and fifty-five.

The honorable Onslow Peters, judge of the sixteenth judicial circuit in the State of Illinois, presiding, to wit: Saturday, March 31st, A. D. 1855.

Decree.

Bill to correct Deed, &c.

WILLIAM P. BRYANT
v.
TOUISSAINT GENDRON, MARY GENDRON.

This day this cause came on to be heard upon the bill, answer, and amended answer, replication, depositions, evidence, and exhibits, and

the same was argued by counsel, and it appearing to the court that all the material averments and allegations of the complainant's bill are true, and that the said defendants did, on the 27th day of February, A. D. 1849, make, execute, and deliver to said William C. Kinney, the deed as stated in said bill, and that it was the intention of the parties, the grantors and grantee, to said deed, that the undivided three-fourths of the said lot of land in said deed described, should by said deed be conveyed to the said grantee, to wit:

Lot No. (29) in the village of Peoria aforesaid, and that it was an error and mistake of the person who drew said deed; that the same does not convey the undivided three-fourths part of said lot, and that all the parties at the time of the execution of said deed intended, supposed and understood that said deed did in fact convey such interest as aforesaid. And that complainant, and those under whom he claims title have frequently applied to the defendants and requested them to correct the mistake in said deed, which they have refused to do. And that the complainant is now the owner and holder of the legal or equitable title to said premises, derived by the several conveyances and records from said William C. Kinney, as stated in complainant's bill. It is therefore ordered, adjudged and decreed that the mistake in the said deed be corrected, and that the said defendants do, within one day from the date of this decree make, execute, and deliver to the complainant their deed in fee simple, of all the right, title, interest and estate, which they or either of them had in or to the undivided three-fourths of the following described real estate, to wit: The lot containing twenty-seven thousand four hundred and forty-nine square feet and seven hundredths of a square foot, surveyed and designated as covered by said claim, number twenty-nine (29), in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey, approved 1st September, A. D. 1840, by the surveyor of the public lands in the States of Illinois and Missouri, on the 27th day of February, A. D. 1849, being the date of the supposed defective conveyance aforesaid, reciting in said deed the said defective conveyance from the defendants to said William C. Kinney, of the date of the 27th February, A. D. 1849, aforesaid; and that in default of the said defendants making the said deed as required by this decree, that George S. Blakeley, master in chancery of this court, be and he is hereby appointed a commissioner, to make, execute, and deliver the said deed in the name of and for and on behalf of the said defendants, and in case said commissioner shall make such deed that he report the same to this court at the earliest period practicable.

It is further ordered, adjudged, and decreed that the said deed, when made and delivered as aforesaid, take effect and be in force as the act and deed of the defendants nunc pro tunc, as of and from the 27th day of February, A. D. 1849, the date of the original deed

from said defendants to said William C. Kinney. It is further ordered, adjudged and decreed, that the said defendants pay the costs of this proceeding, and that execution issue therefor as in cases of judgments at law.

And afterwards, to wit, on the third day of April, A. D. 1855, there was filed in said cause of William P. Bryant, complainant, against Touissaint Gendron and Mary Gendron, defendants, in said court, the report of George S. Blakeley, master in chancery, in the words and figures following, to wit:

Report of Master.

WILLIAM P. BRYANT
v.
TOUISSAINT GENDRON and MARY GENDRON. } In Chancery.

I, George S. Blakeley, commissioner, appointed by the court to make a deed to the complainant from the defendants, in the case of failure on the part of the said defendants to make the deed as required by the decree in this cause, do certify and report to the court that the said defendants failed and neglected to make said deed pursuant to said decree, and that I have this day made, executed and delivered to the complainant a deed for the premises described in said decree, pursuant to the order and decree of the court in that behalf, which is herewith submitted, and the court is respectfully requested to approve the same.

G. S. BLAKELEY,
April 3, 1855. Master and Commissioner.

Whereupon, on the day and year last aforesaid, at the said March term, A. D. 1855, of said Circuit Court, the following further proceedings were had in said court, in said cause, to wit:

WILLIAM P. BRYANT
v.
TOUISSAINT GENDRON and MARY GENDRON. } In Chancery.

This day came George S. Blakeley, commissioner, appointed to make a deed in this cause in case of failure on the part of the defendants to make the same, and presented his report, showing that he had duly executed said deed, &c., which report is ordered to be filed.

And the court having duly considered the same, doth order, adjudge, and decree, that the same be approved, confirmed, and recorded, and that said deed be also in all things approved.

State of Illinois, Peoria County, *ss.*

I, Jacob Gale, clerk of the Circuit Court in and for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is a full and true copy of the bill of complaint and exhibits thereto attached, and a full and correct transcript of the proceedings and decree on the final hearing and trial, and of the report of the master in chancery, and the final and confirmatory order of said court thereon in a certain cause in said court on the chancery side thereof, wherein William P. Bryant is complainant and Touissant Gendron and Mary Gendron are defendants, as the same are of record and on file in my office.

In testimony whereof, I hereto set my hand and affix the seal of said Circuit Court, at my office in Peoria, this nineteenth day of June, in the year of our Lord one thousand eight hundred and fifty-five.

[L.S.]

JACOB GALE,
Clerk.

"20." A Deed from George S. Blakeley, Commissioner, to William P. Bryant, the plaintiff, dated April 2, 1855, which is as follows:

This indenture, made this second day of April, A.D. 1855, between George S. Blakeley, master in chancery, of Peoria county, and commissioner appointed by the Circuit Court of said county for that purpose, of the first part, and William P. Bryant, of Rockville, in the State of Indiana, of the second part, witnesseth: That whereas, on the 27th day of February, A.D. 1849, Touissaint Gendron and Mary, his wife, made, executed, and delivered to one William C. Kinney, of the county of St. Clair, a deed, which is as follows, to wit:

Know all men by these presents, that Touissaint Gendron and Marie Gendron, his wife (formerly Marie Roi), of the county of St. Clair, State of Illinois, heirs-at-law of Simon Roi, deceased, for and in consideration of the sum of fifty dollars, to us in hand paid, the receipt of which is hereby acknowledged, have remised, released and quitclaimed unto William C. Kinney, of the county of St. Clair and State of Illinois, and to his heirs and assigns, forever, the same interest, title, and claim I have in and three-fourths heretofore conveyed, of the following described tract or lot of ground, situated in the city of Peoria, county of Peoria, State of Illinois, and described on the plat of the town of Peoria, as prepared and surveyed in conformity with a report of Edward Coles, register of the land office at Edwardsville, Illinois, to the Secretary of the Treasury, on the 10th day of November, A.D. 1820, and in obedience to the act of Congress approved May 15th, 1820, as—

Lot No. twenty-nine (29), containing about 80 feet front by about 300 feet in depth, which said lot the said Simon Roi was entitled to

by virtue of the conformatory act of Congress, approved March 3d, 1823. To have and to hold the same to him and his assigns, forever.

In witness whereof, I have hereunto set my hand and seal, this 27th day of February, A.D. 1849.

his
TOUISSAINT ⋉ GENDRON. [SEAL.]
mark

her
MARY ⋉ GENDRON. [SEAL.]
mark

Done in presence of
FRS. LA CROIX.

Which said deed was duly acknowledged by the said parties, grantors, and recorded in the recorder's office of Peoria county, on the 24th day of April, A.D. 1849. And whereas, some doubts had arisen as to whether the description in said deed was sufficiently certain and definite to convey and pass the legal title to the land therein mentioned and thereby intended to be conveyed. Therefore, one William P. Bryant, the party of the second part, and who claimed to own said land by divers mesne *conveyonas* and assurances of record, did, on the 24th day of May, A.D. 1854, file in the office of the clerk of the Circuit Court of Peoria County, his bill in chancery and exhibits thereto attached (which, for greater certainty, are referred to), against the said Touissaint Gendron and Mary Gendron, his wife, praying therein, among other things, that said deed might be corrected, or said Gendron and wife might be compelled to make, execute, and deliver to the said William P. Bryant a deed, with a full, definite, and perfect description of the land in said deed mentioned and intended to be conveyed, as by the said bill and exhibits will fully and at large appear.

And whereas, such proceedings were afterwards had in said court, that the said Touissaint Gendron and Mary Gendron appeared and filed their answers; the said William P. Bryant filed also his replication in said cause, and the same was submitted to the court for hearing at the March term, A.D. 1855, of the Peoria County Circuit Court, and at said term, and on the 31st day of March last aforesaid, the court made and caused to be entered of record the following decree in the suit aforesaid:

Bill to correct Deed, &c.

WILLIAM P. BRYANT
v.
TOUISSAINT GENDRON and MARY GENDRON. } In Chancery.

This day this cause came on to be heard upon the bill, answer, and amended answer, replication, depositions, evidence, and exhibits, and the same was argued by counsel, and it appearing to the court that all the material averments and allegations of the complainant's bill

are true, and that the said defendants did, on the 27th day of February, A.D. 1849, made, execute, and deliver to said William C. Kinney, the deed as stated in said bill, and that it was the intention of the parties, the grantors and grantees to said deed, that the undivided three-fourths of the said lot of land in said deed described should, by said deed, be conveyed to said grantor, to wit:

Lot No. 29, in the village of Peoria aforesaid, and that it was an error and mistake of the person who drew said deed, that the same does not convey the undivided three-fourths parts of said lot, and that all the parties, at the time of the execution of said deed, intended, supposed, and understood, that the said deed did in fact convey such interest as aforesaid, and that the complainant and those under whom he claims title, have frequently applied to the defendants, and requested them to correct the mistake in said deed which they have refused to do, and that the complainant is now the owner and holder of the legal or equitable title to said premises, derived by the several conveyances and records from said William C. Kinney, as stated in complainant's bill.

It is therefore ordered, adjudged, and decreed, that the mistake in the said deed be corrected, and that the said defendants do, within one day from the date of this decree made, execute and deliver to the complainant their deed in fee simple of all the right, title, interest, and estate, which they, or either of them, had in or to the undivided three-fourths of the following described real estate, to wit:

"The lot containing twenty-seven thousand four hundred and forty-nine square feet and seven hundredths of a square foot, surveyed and designated as covered by said claim, number twenty-nine (29), in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, acccording to the survey, approved 1st September, A. D. 1840, by the surveyor of the public lands, in the States of Illinois and Missouri," on the 27th day of February, A.D. 1849, being the date of the supposed defective conveyance, aforesaid, reciting in said deed the said defective conveyance from the defendants to the said William C. Kinney, of the date of the 27th February, A.D. 1849, aforesaid; and that in default of the said defendants making the said deed, as required by this decree, that said George S. Blakeley, master in chancery of this court, be and he is hereby appointed a commissioner to make, execute and deliver the said deed, in the name of and for and on behalf of the said defendants; and in case said commissioner shall make such deed, that he report the same to this court, at the earliest period practicable.

It is further ordered, adjudged, and decreed, that the said deed, when made and delivered as aforesaid, take effect and be in force as the act and deed of the defendants "*nunc pro tunc*," as of and from the 27th day of February, A.D. 1849, the date of the original deed from said defendants to said William C. Kinney.

It is further ordered, adjudged, and decreed, that the said defendants pay the costs of this proceeding, and that execution issue therefor as in cases of judgments at law, as by the decree aforesaid, remaining of record in said cause, will fully appear.

Now, therefore, I, the said George S. Blakeley, master in chancery and commissioner aforesaid, by virtue of the authority in me vested, under and in force of the decree aforesaid (the said Touissaint Gendron, and Mary Gendron, having neglected and wholly failed to make the deed required by said decree to be made by them), in the name, place and stead, and for the said Touissaint Gendron and Mary, his wife, have remised, released, quitclaimed, granted, and sold, and by these presents do remise, release, quitclaim, grant, and sell, unto the said William P. Bryant, the said lot and land last before described, and all the interest, right, title, claim, and demand, which the said Touissaint Gendron and Mary Gendron had, in and to the same, on the 27th day of February, A.D. 1849, the date of the said conveyance from said Touissaint Gendron, and Mary Gendron to the said William C. Kinney.

To have and to hold the same, with all the privileges and appurtenances thereto belonging, to the only proper use, benefit, and behoof of the said William P. Bryant, party of the second part, his heirs and assigns, forever.

In witness whereof, I, the said George S. Blakeley, as such commissioner as aforesaid, under and by virtue of the decree and authority aforesaid, have hereunto set my hand and seal, this second day of April, A.D. 1855.

GEORGE S. BLAKELEY, [SEAL.]
Master in Chancery and Commissioner.

State of Illinois, Peoria County, *ss.*

I, Jacob Gale, clerk of the Circuit Court, in and for the county aforesaid, do certify, that on this second day of April, A.D. 1855, personally appeared before me, George S. Blakeley, to me personally known to be the same person who, as commissioner, made, executed and delivered the foregoing deed, and acknowledged that as such commissioner he had executed the same for the uses and purposes therein expressed.

Witness my hand and the seal of the Circuit Court of
[L. S.] the County of Peoria aforesaid, the day and year above written.

JACOB GALE,
Clerk.

State of Illinois, Peoria County.

RECORDER'S OFFICE.

I, Jacob Gale, clerk of the Circuit Court, in and for the County

of Peoria, in the State of Illinois, and ex officio recorder of deeds, in said county, do hereby certify, that the annexed deed and certificate of acknowledgment was filed for record in my office, on the 23d day of May, A.D, 1855, and has been duly recorded, with the accompanying certificate, on pages 587, 588, 589 and 590, in Book L. A., in said recorder's office.

In witness whereof, I hereto set my hand and affix the [L. S.] seal of the said Circuit Court, at my office, in Peoria, this nineteenth day of June, A.D. 1855.

JACOB GALE,
Clerk and Recorder.

Defendant objected to the introduction of said record, decree, and deed, but the court overruled the objection and admitted the evidence.

Here plaintiff rested.

Defendant then read in evidence:

1. A certificate of the register of the land office, at Quincy, dated 12 April, 1836, which is as follows:

LAND OFFICE, QUINCY, ILL., 12th April, 1836.

I, Samuel Alexander, register of said office, do hereby certify, that on the 28th day of July, 1832, Charles Ballance claimed and established a right of pre-emption to the southwest quarter of section No. nine, township eight north of the base-line, and range eight east, of the 4th principal meridian, as appears by documents on file in my office.

Given from under my hand and seal, the day and year aforesaid.

SAML. ALEXANDER, [SEAL.]
Register.

2. A certificate of the entry of the S. W. quarter of Sec. 9, 8 N. 8 E., dated 27 November, 1837, which is as follows:

U. S. LAND OFFICE, QUINCY, ILLINOIS,
27th November, 1837.

I do hereby certify that Charles Ballance, of Peoria county, in the State of Illinois, did this day enter or purchase at this office the southwest fractional quarter of fractional section No. 9, in township No. 8 north, of range No. 8 east, of the fourth pr. meridian, containing one hundred and forty-seven and $\frac{43}{100}$ acres, certificate No. 13,293, as appears of record in this office.

SAML. LEECH,
Register.

Filed April 6th, A.D. 1854, and recorded in G. A., page 142.

JACOB GALE,
Recorder, Peoria County.

3. The Receiver's receipt for the purchase-money, which is as follows:

Pre-Act, 1834.

RECEIVER'S OFFICE, QUINCY, ILLINOIS,
27th November, 1837.

Duplicate.

No. 13,293.

Received from Charles Ballance, of Peoria county, Illinois, the sum of one hundred and eighty-four dollars and twenty-eight and $\frac{3}{4}$ cents, being in full payment for the southwest fractional quarter of section No. 9, township No. 8 north of the base line, of range No. 8 east, of the fourth principal meridian, containing one hundred and forty-seven acres and $\frac{43}{100}$ of an acre, at the rate of one dollar and twenty-five cents per acre.

$184 28$\frac{3}{4}$.

THO. CARLIN,
Receiver.

Filed April 6th, A.D. 1854, and recorded in book G. A., page 142.

JACOB GALE,
Recorder, Peoria County.

4. A Patent from the United States to Charles Balance, which is as follows:

The United States of America.

To all to whom these presents shall come, greeting:

Certificate No. 13,293.

Whereas Charles Ballance, of Peoria county, Illinois, has deposited in the General Land Office of the United States a certificate of the register of the land office at Quincy, whereby it appears that full payment has been made by the said Charles Ballance, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the southwest fractional quarter of section nine, in township eight north, of range eight east, in the district of lands subject to sale at Quincy, Illinois, containing one hundred and forty-seven acres and forty-three hundredths of an acre, according to the official plat of the survey of the lands returned to the General Land Office by the surveyor-general, which said tract has been purchased by the said Charles Ballance.

Now know ye, that the United States of America, in consideration of the premises and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said Charles Ballance and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances,

of whatsoever nature thereunto belonging, unto the said Charles Ballance and to his heirs and assigns, forever, subject, however, to the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois."

In testimony whereof I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the twenty-fourth day of January, in the year of our Lord one thou-
[L. S.] sand eight hundred and thirty-eight, and of the independence of the United States the sixty-second.

By the President.

MARTIN VAN BUREN.

By A. VAN BUREN,
Secretary.

Recorded, vol. 3, page 114.

H. M. GARLAND,
Recorder of the General Land Office.

State of Illinois, County of Peoria.

RECORDER'S OFFICE.

I, Charles Kettelle, recorder in and for said county of Peoria, do hereby certify the annexed patent from the United States to Charles Ballance for the S. W. sec. 9, 8 N., 8 E., is duly recorded in said office, in book P., page 478, on this 25th day of September, A.D. 1845.

CHARLES KETTELLE,
Recorder, Peoria County.

5. A Judgment for Taxes, rendered 25th May, 1846, and Precept issued thereon; which Judgment and Precept are as follows:

At a Circuit Court, begun and held at the court-house in the city of Peoria, in the county of Peoria and State or Illinois, on Monday, the twenty-fifth day of May, in the year of our Lord one thousand eight hundred and forty-six.

Present, the Hon. Gustavus Koener, associate justice of the Supreme Court of the State of Illinois, by exchange with the Hon. John Dean Caton, associate justice of the said Supreme Court and judge of the ninth judicial circuit.

State of Illinois, Peoria County, *ss.*

Whereas Smith Frye, collector of said county, returned to the Circuit Court of said county, on the twentieth day of May, A.D. 1846, the following tracts and parts of tracts of land and town-lots, as

having been assessed for taxes by the assessor of said county of Peoria for the year 1845, and that the taxes thereon remain due and unpaid on the day of the date of the said collector's return, and that the respective owners have no goods and chattels within his county, on which the said collector can levy for the taxes, interest, and costs due and unpaid on the following described lands and town-lots, situated in the county of Peoria and State of Illinois, to wit:

Description.		Acres.	Tax.	Costs.	Cents.
	8 N. 8 E.				
Pt. S. W. 9,	"	$105\frac{63}{100}$	$63.36		22

Bounded as follows: Beginning at a point stone, on the N. line of said S. W. quarter section 92, W. of the N. E. corner thereof; thence running south 48 deg. E., 56 poles, to a state in the middle of Adams street; thence 48 deg. W., along the middle of Adams street, 19 poles, to a stake; thence N. 80 deg. W., 17 poles, to a stake; thence S. 48 deg. W. to the west line of said quarter section; thence south with said line to the southwest corner of said section; thence east to the Illinois river; thence up along the meander of said river to where a line between the S. E. and S. W. quars. of sec. 9, 8 N., 8 E., strikes said river; thence N. along said line to the N. E. corner of said qr. section, near S. W. Drown's house; thence west, through said house, to the place of beginning,—the four first of said lines being run according to the apparent meridian, but the others according to the real meridian.

And whereas due notice has been given of the intended application for a judgment against said lands and town lots, and no owner hath appeared to make defence or show cause why judgment should not be entered against the said lands and town lots for the taxes, interest, and costs due and unpaid thereon for the year herein set forth. Therefore it is considered by the court that judgment be and is hereby entered against the aforesaid tracts of land and town lots, in the name of the State of Illinois, for the sum annexed, to each tract, or parcel of land, or town lot, being the amount of taxes and costs due severally thereon; and it is ordered, by the said court, that the said several tracts of land and town lots, or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes and costs annexed to them severally, be sold as the law directs.

And afterwards, to wit, on the tenth day of June, A.D. 1846, there was issued out of said court, under the seal thereof, by the clerk of said court, a precept to the sheriff of said county of Peoria, for the sale of the lands under said judgment, which is in the words and figures following, to wit:

At a Circuit Court, begun and held at the court-house, in the city of Peoria, in the county of Peoria, and State of Illinois, on Monday, the twenty-fifth day of May, in the year of our Lord one thousand eight hundred and forty-six.

Present, the Honorable Gustavus Kœner, associate justice of the Supreme Court of the State of Illinois, by exchange with the Honorable John Dean Caton, associate justice of the said Supreme Court, and judge of the Ninth Judicial Circuit.

State of Illinois, Peoria County, *ss.*

Whereas Smith Frye, collector of said county, returned to the Circuit Court of said county, on the twentieth day of May, A.D. 1846, the following tracts and parts of tracts of land and town lots as having been assessed for taxes by the assessor of said county of Peoria for the year 1845, and that the taxes thereon remained due and unpaid on the day of the date of the said collector's return, and that the respective owner or owners have no goods and chattels within his county on which the said collector can levy for the taxes, interest, and costs due and unpaid on the following described lands and town lots situated in the county of Peoria, and State of Illinois, to wit:

Description.		No. Acres.	Tax.	Costs.	Cents.
	8 N., 8 E.				
Pt. S. W. 9,	"	$105\frac{63}{100}$	$63.36		22

Bounded as follows: Beginning at a stone on the north line of said S. W. quarter section 92, west of the N. E. corner thereof; thence running S. 48 deg. E., 56 poles, to a stake in the middle of Adams street, 19 poles, to a stake; thence N. 80 degrees W., 17 poles, to a stake; thence S. 48 degrees W., to the west line of said quarter; thence south with said line to the southwest corner of said section; thence east to the Illinois river; thence up along the meanders of said river to where a line between the S. E. and S. W. quarters of sec. 9, t. 8, r. 8 E., strikes said river; thence N. along said line to the N. E. corner of said qr. section, near Mr. Down's house; thence west, through said house, to the place of beginning,—the four first of said lines being run according to the apparent meridian, but the others according to the real meridian.

And whereas due notice has been given of the intended application for a judgment against said lands and town lots, and no owner hath appeared to make defence or show cause why judgment should not be entered against the said lands and town lots for the taxes, interest, and costs due and unpaid thereon for the year herein set forth.

Therefore it is considered, by the court, that judgment be and is hereby entered against the aforesaid tracts and parts of land and town lots, in the name of the State of Illinois, for the sums annexed to each tract, or parcel of land, or town lot, being the amount of taxes and costs due severally thereon; and it is ordered, by the court, that the said several tracts of land and town lots, or so much thereof

as shall be sufficient of each of them to satisfy the amount of taxes and costs annexed to them severally, be sold, as the law directs.

State of Illinois, Peoria County, *ss.*

I, Jacob Gale, clerk of the Circuit Court of said county of Peoria, do hereby certify that the foregoing is a true and perfect copy of the report of the collector of said county for the taxes of the year 1845, returned into and on file in my office, and of the order of the said Circuit Court thereon.

In witness whereof I have hereunto set my name and the seal of said court, at Peoria, in said county, this tenth day of [L. S.] June, in the year of our Lord one thousand eight hundred and fifty-six.

JACOB GALE,
Clerk.

Which process was returned into said clerk's office afterwards, to wit, on the twentieth day of June, A.D. 1846, with the said sheriff's return thereunder written, in the words and figures following, to wit:

Return.

State of Illinois, Peoria County, *sct.*

By virtue of the foregoing process I did, with the assistance of the clerk of the County Commissioners' Court of said county of Peoria, attend at the court-house, in the city of Peoria, in said county, on Tuesday, the sixteenth day of June, A.D. 1846, at the hour of ten o'clock A.M., and proceed to sell each lot or parcel of land described in the foregoing list (on which the taxes were not paid previous to the day of sale) at public auction, or so much thereof as was necesary to obtain the amount of taxes and costs due on each, as specified in said list, by offering the whole tract or lot of land for the amount of taxes and costs due thereon, and striking them off to the persons respectively who would pay the amount due on each tract of land or town lot, for the least number of acres, or least quantity thereof, commencing with the first lot or tract of land in said list described, and proceeding in the order the same are therein described to lot number one, in block number one, in the town of Peoria; and afterwards, at 3 o'clock P.M. of said day, adjourned the sale to 10 o'clock A.M. of June 17th, 1846.

And on June 17th, at 10 o'clock A.M., I proceeded to sell, in like manner, the remaining lots of land and town lots described in said list, commencing at lot No. one in block No. one, in the town of Peoria, and sold to lot No. ten in block No. twenty-seven, in Hale's addition to Peoria, in said list; and afterwards adjourned the sale to 10 o'clock A.M. of June 18th, 1846. And on June 18th, 1846, at

10 o'clock A.M., I proceeded to sell, in like manner, the remaining lots of land and town lots described in said list to the end thereof.

The clerk of the said County Commissioner's Court kept a record of said sales, in which was entered each lot or parcel of land exposed to sale by me as aforesaid, the name of the purchaser, his place of residence, and the quantity of land sold.

Dated at Peoria, this twentieth day of June, A. D. 1846.

SMITH FRYE,
Sheriff of Peoria County, and Collector for said county for taxes of 1845.

State of Illinois, Peoria County, *ss.*

I, Jacob Gale, clerk of the Circuit Court, within and for said county of Peoria, do hereby certify that the foregoing is a full, correct, and complete transcript from the records of said court of a judgment against the lands therein set forth, rendered by said court at the May term, A. D. 1846, for the taxes thereon, and costs for the year 1845 unpaid by the owner thereof; and also of the precept issued to the sheriff of said county for sale of said land on said judgment, and also of the said sheriff's return to said precept, as the same are of record and on file in my office.

In witness whereof, I hereto set my hand and affix the seal [L. S.] of said Circuit Court at my office in Peoria, this 2d day of January, A. D. 1856.

JACOB GALE,
Clerk.

"C." A Deed from the sheriff of Peoria County to Charles Balance, dated 10th Nov. 1850, which is as follows:

Know men by these presents, that whereas at the May term, A. D. 1846, of the Circuit Court of Peoria County, a judgment was obtained in said court in favor of the State of Illinois against a certain tract of land of one hundred and five acres, and sixty-three-hundredths of an acre, being part of the southwest quarter of section No. nine, in township eight north, of range eight east, of the fourth principal meridian, bounded as follows, to wit:

Beginning at a stone on the north line of said southwest quarter section, ninety-two poles west of the northeast corner thereof; thence running south forty-eight degrees east, fifty-six poles, to a stake in the middle of Adams street; thence forty-eight degrees west, along the middle of Adams street, nineteen poles, to a stake; thence north eighty degrees west, seventeen poles, to a stake; thence south forty-eight degrees west, to the west line of said quarter section; thence south with said line to the southwest corner of said quarter section; thence east to the Illinois river; thence up along the meanders of said river to where the line between the southeast and southwest

quarters of section nine, in township eight north, of range eight east, strikes said river; thence north along said line, to the northeast corner of said quarter section, near Mr. Down's house; thence west, through said house, to the place of beginning: the four first of said lines being run according to the apparent meridian, but the others according to the true meridian; for the sum of sixty-three dollars and fifty-eight cents, being the amount of taxes, interest, and costs, assessed upon the said tract of land for the year eighteen hundred and forty-five; and whereas, on the sixteenth day of June, eighteen hundred and forty-six, I, Smith Frye, then sheriff of said Peoria county, by virtue of a precept issued out of the Circuit Court of the county aforesaid, dated the tenth day of June, 1846, and to me directed, did expose to public sale at the door of the court-house in the county aforesaid, in conformity with all the requisitions of the statute in such case made and provided, the tract of land above described, for the satisfaction of the judgment so rendered as aforesaid; and whereas, at the time and place aforesaid, Charles Ballance, of the county of Peoria, and State of Illinois, having offered to pay the aforesaid sum of sixty-three dollars and fifty-eight cents, for nine acres off the east side of said tract of land, which was the least quantity bid for, the said tract of land was stricken off to him, the said Charles Ballance, at that price, and said sum was then and there paid to me by said Ballance.

Now therefore, I, Smith Frye, late sheriff, as aforesaid, for and in consideration of the said sum of money, to me in hand paid, by the said Charles Ballance, at the time of the aforesaid sale, and by virtue of the statute in such case made and provided, have granted, bargained, and sold, and by these presents, do grant, bargain, and sell unto the said Charles Ballance, his heirs and assigns, the aforesaid tract of land and appurtenances.

To have and to hold the said tract of land and appurtenances to the said Charles Ballance, his heirs and assigns, forever; subject, however, to all the rights of redemption provided by law.

In witness whereof, I, Smith Frye, sheriff, as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name and affixed my seal, this tenth day of November, 1850.

SMITH FRYE, [SEAL.]
Sheriff.

State of Illinois, Peoria County, *ss.*

Be it known, that on the day of the date hereof, personally appeared before me, Jacob Gale, clerk of the Circuit Court of said county, Smith Frye, who is personally known to me to be the real person whose name appears subscribed to the foregoing deed of conveyance as having executed the same, in the capacity of sheriff of said county, and acknowledged the execution thereof to be his free act and deed for the uses and purposes therein expressed.

In witness whereof, I have hereunto set my hand and seal of said court, the date aforesaid. [L. S.] JACOB GALE, Clerk.

"7." A certified copy of a deed from Belshezzer Latture and Catharine Latture his wife, and Touissaint Gondro, and Mary Gondro, his wife, to Seth Converse, dated 24th October, 1839, which said deed, with the acknowledgment, is as follows:

This indenture, made the 24th day of October, in the year of our Lord one thousand eight hundred and thirty-nine, between Belshezzar Latture, and Catharine, his wife, and Baltease Tousant or Johnroe, and Mary, his wife, who was before *marage* Mary Roi, all heirs at law to the late Antoine Roi and Simon Roi, formerly of or about Fort Clark of Peoria, and State of Illinois, of the first part, now of the county of St. Clair and State of Illinois, and Seth Converse of the second part, of the county and State aforesaid, witnesseth, that the said parties of the first part, for and in consideration of the sum of six hundred dollars, in hand and paid, by the said Converse, of the second part, the receipt whereof is hereby acknowledged, hath and do, by these presents, *bargin* and *sel* unto Seth Converse, of the second part, and to his heirs and assigns, forever, all their right, title, and interest to the following parcels of land, to wit:

No. 28, about half an arpent, and also No. 29, and about half an arpent, an also No. 30, one and a half arpent, and No. 31, about six arpents, and also a $\frac{1}{3}$d of a lot or an old field, of about 30 arpents, all the above being the original right of Simon Roi of Peori, and also all our right and title of the original right of Antoine Roi, namely, No. 33, one and a half arpent, and No. 34, one-half arpent, and also No. 35, one-third of an out lot, and of about 30 arpents.

To have and to hold unto him of the second part, and his heirs and assigns, the named *parsels* of land, together with all the *heriditiments* and *apurtenances* thereunto belonging.

In witness whereof we and each of us have hereunto set our hands and seals, this twenty-*forth* of October, one thousand eight hundred and thirty-nine. All of the above-named parcels of land is situated in or near Fort Clark and in or about Peoria, in the State of *of* Illinois and near Illinois river. For further *perticular* reference can be had at the General Land Office.

his
BELCHEZER ⋈ LATTURE. [SEAL.]
mark.

her
CATHARINE ⋈ LATTURE. [SEAL.]
mark.

A. H. COOK,

his
TOUSANT ⋈ GONDRO. [SEAL.]
mark.

his
CHARLES ⋈ MAIS.
mark.

her
MARY ⋈ GONDRO. [SEAL.]
mark.

State of Illinois, St. Clair County.

I, Alexander H. Cook, a justice of the peace of said county, do certify that Belchezer Latture and Catharine Latture, his wife, and Tousant Gondro and Mary Gondro, the wife of the said Tousant Gondro, whose signature appears to the foregoing deed, and who are personally known to me to be the persons described in and *and* who executed the same, did severally acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned, and the said Catharine Latture and Mary Gondro, having been by me made acquainted with the contents of the said deed, and examined separate and apart from *there* said husbands, acknowledged that they had executed the same and relinquished *there* dowers to the premises therein conveyed *voluntarly*, freely, and without compulsion of *there* said husbands.

Given under my hand and seal this 24th day of October, in the year of our Lord one thousand eight hundred and thirty-nine.

ALEXANDER H. COOK, [SEAL.]
Justice of the Peace St. Clair County, Illinois.

State of Illinois, St. Clair County, *ss.*

I, John Scheel, clerk of the County Court for St. Clair county, and ex officio recorder of civil commissions in and for said county, certify that Alexander H. Cook was, on the 24th day of October, 1839, an acting justice of the peace of St. Clair county, Illinois, duly elected, commissioned, and qualified, and that full faith and credit is and ought to be given to all his official acts as such justice of the peace.

Witness John Scheel, clerk of said County Court and the [L. S.] seal thereof, at office, Bellville, this 27th day of September, 1854.

JOHN SCHEEL.

State of Illinois, County of Peoria.

I, James S. Barkman, clerk of the Circuit Court and ex officio recorder of said county in said State, do hereby certify that the foregoing is a full and correct copy from the records of a deed, and the certificates thereto, as the same stand recorded on pages 50 and 51, in Book L. A. in the recorder's office of said county.

In witness whereof I hereto set my hand and affix the seal [L. S.] of said court at office in Peoria, this 19th day of July, A.D. 1856.

JAMES S. BARKMAN,
Clerk and Recorder.

A certified copy of a deed from Baltzure Latour and Catharine Latour, his wife, and Touissaint Genderson and Marie Genderson, his wife, to Narcisse Pensoneau and Samuel B. Chandler, dated March 2, 1838, which said deed, with the acknowledgment and date of recording, is as follows:

Know all men by these presents, that we, Baltzare Latour and Catharine, his wife, and Toussain Gondrion and Marie, his wife, of the first part, heirs of Simon Roy, and Narcisse Pensoneau, and Samuel B. Chandler, of the second part, all of the county of St. Clair and State of Illinois, witnesseth, that for and in consideration of the sum of one thousand dollars paid in hand, the receipt whereof is hereby acknowledged, do remise, release, sell, convey, and quit-claim, and by these presents doth absolutely remise, release, sell, convey, and forever quitclaim unto the said Narcisse Pensoneau and Samuel B. Chandler, their heirs and assigns, forever, the following described lands and lots, viz.:

Three-fourths of three parcels of land, situated and lying in the village of Peoria, and known on the plat of said village as being lots numbered twenty-eight (28), twenty-nine (29), and thirty (30). Also three-fourths of one field or outlot in or adjoining said village, containing six acres more or less, and numbered on said plat as being lot number thirty-one (31). Also one other field or outlot, containing ten acres, more or less, lying on or near the little river Catens; all the above numbered lots of land are known on plat of said village in the name of said Simon Roy, and inherited by us as the only and true heirs of said Roy.

Together with all and singular the appurtenances thereunto belonging or in anywise appertaining.

To have and to hold the above-described premises unto the said parties of the second part, their heirs and assigns, forever, and the said parties of the first part will forever warrant and defend against the claim or claims of any and every person claiming through and under them.

In testimony whereof the said parties of the first part have hereunto set their hands and seals this second day of March, in the year of our Lord one thousand eight hundred and thirty-eight.

his
BALTZARE ⋈ LATOUR. [SEAL.]
mark.

her
CATHARINE ⋈ LATOUR. [SEAL.]
mark.

his
TOUSAINT ⋈ GENDRON. [SEAL.]
mark.

her
MARIE ⋈ GENDRON. [SEAL.]
mark.

In the presence of us,
NARCISSE CORNOEYER,
For Latour and wife.
PIERE THIEBODER, and
GRADION and wife.

State of Illinois, St. Clair County, *ss.*

I, Narcisse Conroyer, a justice of the peace of said county, do certify, that Baltzare Latour and Catharine, his wife, and Tourssain Gendrion and Marie, his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in, and who executed the same, did severally acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned; and the said Catharine Latour and Marie Gendison having been by me made acquainted with the contents of the same, and examined separate and apart from their said husbands, acknowledged they had executed the same, and relinquished their dowers to the premises therein conveyed, voluntarily, freely, and without compulsion of their said husbands.

Given under my hand and seal, this second day of March, in the year of our Lord one thousand eight hundred and thirty-eight.

NARCISSE CORNOYER,
J. P.

State of Illinois, St. Clair County, *ss.*

I, James M. Charles, clerk of the County Commissioners' Court of the county and State aforesaid, it being a court of record of civil commissioners, do certify, that Narcisse Cornoyer was, at the time of subscribing the foregoing instrument of writing, an acting justice of the peace for and within the said county, and to all his official acts as such, full faith and credit is and ought to be given.

Witness, James M. Charles, clerk of the County Commissioners' Court of St. Clair county, this 14th day of April, A.D. 1838.

[SEAL.]

JAMES M. CHARLES,
Clerk.

State of Illinois, Peoria County, *ss.*

I, James S. Barkman, clerk of the Circuit Court, and ex officio recorder of Peoria county, do certify, that the foregoing is a true copy of a deed and accompanying certificates, as they stand recorded in book "J.," on pages 227 and 228 of deeds in my office.

Witness my hand and the seal of said court, this 28th day of July, A.D. 1856.

[L. S.]

JAMES S. BARKMAN,
Clerk.

All of which evidence was, by the consent of the plaintiff counsel, permitted to be given to the jury for the purpose of saving time, and subject to all legal objections and exceptions, to be taken and explained by instructions to the jury to be given by the court.

The defendant then read in evidence the following depositions:

1st. That of Aquilla Moffitt.
2d. " A. S. Cole.
3d. " Madeline Glodon, taken Nov. 1st, 1856.

Deposition of Aquilla Moffatt.

United States of America, Northern District of Illinois, *ss.*

Be it remembered, that, on the 5th day of June, A.D. 1855, Charles Ballance personally appeared before me, George S. Blakeley, a notary public, appointed under the laws of the State of Illinois to take affidavits and acknowledgments of bail, &c., and made oath to the truth of the annexed affidavit, and subscribed the same in my presence, and filed the same before me; and I was thereupon requested, in behalf of said Greggory, the defendant, to take the deposition of said Aquilla Moffit, Alminon S. Cole, William C. H. Barton, and Samuel Dimon, according to the directions of the act of Congress in such case made and provided. Whereupon, I ordered that said witnesses be examined before me de bene esse, and that said Norman H. Purple, whose office is in Peoria, should have two days' notice of the taking thereof, to the end that he might, if he should think fit, be present at said examination, and put interrogatories to said witnesses; and I, having satisfactory proof that such notice had been given, and the said Charles Ballance appearing before me, at the office of Johnson & Blakeley, in the city and county of Peoria and State of Illinois, on the eleventh day of June, A.D. 1855, between the hours of nine o'clock, A.M., and six o'clock, P.M., I have therefore proceed with the examination of said witnesses; and the said Aquilla Moffit, being carefully examined and cautioned, and duly sworn to testify the truth, the whole truth, and nothing but the truth, saith, in answer to the following interrogatories, as follows:

Interrogatory 1st. What is your age, and where do you reside?

Ans. My is *is* fifty-three years, and reside three miles below Peoria.

Ques. 2. How long have you resided that near Peoria, and have you been all that time acquainted in and about Peoria.

Ans. I have resided there since 1830, and have been acquainted in and about Peoria since the year 1822.

Ques. 3. Are you acquainted with Charles Ballance; and, if yes, how long have you known him?

Ans. I am acquainted with him, and have known him since the spring of 1832.

Ques. 4. What do you know, if anything, with regard to the possession of the southwest fractional quarter of section nine, in township eight north, of range eight east, of the fourth principal meridian, by said Charles Ballance?

Ans. I know of said Charles Ballance being in possession of said land in the summer of 1832, and has cultivated a portion of it ever since that time. He has had forty acres under cultivation for years —for ten years, at least.

Ques. 5. State, if you know, where said Ballance has resided since you have known him, and whether he is single or has a family, and whether he has been a housekeeper?

Ans. When I first knew him he was a single man. In the year 1834, as I recollect, he brought his sister here, who kept house for him; afterwards, in a yellow frame house, near the Illinois river, on another fraction of the same section, and lived there until he moved where he now lives, which is about ten or twelve years since, and has lived there since. His present residence is on the southwest quarter of section nine, in same township.

AQUILLA MOFFATT.

Quest. 6. When you came to Peoria, could you or not trace out the improvements of the ancient French inhabitants, by their cellars, remains of chimneys, &c., or had they all disappeared?

Ans. When I came to Peoria, they were plain to be seen.

Quest. 7. State, if you please, whether any of their houses were situated any further down the river than the avenue reaching from said Ballance's house to the river, called Ballance's avenue, or were they all above said avenue?

Ans. Some of them were further down than that.

I further certify, that the above 6th and 7th questions and the answers thereto, were omitted in this deposition by mistake, and were afterwards hereto attached by consent of said witness, Aquilla Moffatt, and sworn to by him.

GEO. S. BLAKELEY,
Notary Public.

And I further certify, that the preceding deposition was reduced to writing by me, and signed by the said Aquilla Moffat in my presence; and that I am not of counsel or attorney to either of the parties to said suit, nor am I interested in the event thereof.

[L. S.] GEORGE S. BLAKELEY,
Notary Public.

Deposition of A. S. Cole.

I then ordered the further taking of said depositions be adjourned,

until to-morrow at ten o'clock A.M., at the same place; said adjournment being, in my opinion, necessary.

June 12th, 1855, at ten o'clock A.M., said Charles Ballance at this time, and at the place aforesaid, producing said Almiron S. Cole, as a witness in said cause, and the said Almiron S. Cole, being carefully examined and cautioned, and duly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the following interrogatories answered as follows:

Question 1st. Do you know Charles Ballance? If yes, how long have you known him?

Ans. I do know him, and have known him for 17 or 18 years.

Ques. 2. Where did said Ballance live when you first knew him; and where has he lived ever since?

Ans. He lived in town of Peoria, and county of Peoria, and State of Illinois, and he lives there now.

He resided there the first year that I knew him, near Fort Clark, in said town. He resided there until the year 1844, when he moved to where he now resides, on the southwest quarter of fractional section nine, in township eight north, range eight east, in said county.

Quest. 3d. What do you know, if anything, respecting said Ballance's possession of said southwest quarter, before he commenced residing thereon.

Ans. I knew of said Ballance cultivating a portion of said land every year, from the time that I came to the country up to the present time; and or previous to the year 1844, he built a house on said land, which he now resides in.

Quest. 4th. Did you ever improve any portion of said tract under a lease from said Ballance? If yes, state what part, when and in what manner you occupied it?

Ans. Under a lease of ten years, with privilege of renewal, I inclosed two hundred feet on railroad running to Illinois river, being lot three, in block forty-seven, in Ballance's addition to Peoria, and put a distillery and other improvements on it, which I afterwards sold to Sylvanus Thompson, and now occupied by Richard Gregg, son-in-law to said Thompson, and his administrator. I also inclosed, on another lease, a tract on the lower side and adjoining same piece, and running from railroad to said river, including part of block sixty-seven and sixty-eight. Said Thompson occupied said land at the time of his decease, and that said Gregg acted with said Thompson, up to the time of his decease; and that said Gregg has occupied said land since the decease of said Thompson.

A. S. COLE.

And I further certify, that the preceding deposition—that is, every answer to said interrogatories, was reduced to writing *be* me, and signed by the said Almiron S. Cole; and that I am not of coun-

sel or attorney to either of the parties to said suit, nor am I interested in the event thereof.

GEORGE S. BLAKELEY,
Notary Public.

Deposition of Madeline Glodon.

Be it remembered, that on the 1st day of November, A.D. one thousand eight hundred and fifty-four, at the residence of Madeline Glodon, in the said county of St. Clair, Charles Ballance personally appeared before me, Theodore M. Walsh, a justice of the peace and notary public, duly qualified for and acting as such in the said county of St. Clair, and State of Illinois, and made oath that the said Charles Ballance was virtually the defendant in a suit then pending, in the Circuit Court of the United States, for the State and District of Illinois, wherein William P. Bryant was plaintiff, and Richard Gregg was defendant (said Richard Gregg being his, Ballance's, tenant), that the testimony of Madeline Glodon was material and necessary for him, the said Ballance, in the defence of said suit, and that the said Madeline Glodon lived in St. Clair county, in the State of Illinois, more than one hundred miles from Chicago, where the court at which he, the said defendant, expected the said cause would be tried, was appointed by law to be held.

That the said William P. Bryant, the above-named plaintiff, resided at Rockville, in the State of Indiana, not less than two hundred miles from St. Clair County aforesaid, and that Norman H. Purple, his attorney, resided at Peoria, about one hundred and seventy miles from said St. Clair county; and the said Charles Ballance requested me, that the said Magdoline Glodon might be examined according to the act of Congress, in such case made and provided.

Whereupon I ordered that the said Magdaline Glodon should be examined *de bene esse* before me at her residence, in the county of St. Clair aforesaid.

The said Charles Ballance, appearing before me at the residence of said Madeline Glodon, in said St. Clair county, on the first day of November, A.D. 1854. I have therefore proceeded with the said examination.

And the said Madaline Glodon, being carefully examined and cautioned, and duly sworn to testify the whole truth and nothing but the truth, saith:

Interrogatory. Did you or not ever live in Peoria, in the State of Illinois? and if yes, when?

Answer. I lived in Peoria for sixteen years, up to the year A.D. 1812.

Int. Did you or not know Simon Roi and Antoine Roi there?

Ans. Yes.

Int. Did you or not know that Antoine Roi was married, and if yes, state how often, and the names of his wife or wives.

Ans. I know that Antoine Roi was married twice; firstly to Miss Lirarnois, and subsequently to Miss Miyett.

Int. Had he or not any children by his first wife, and if yes, what were their names?

Ans. I know that he had two children by his first wife, but do not remember their names, but know that one of them was a daughter, and married a man named Latour.

Int. Do you not know that he had children by his second wife, and if yes, how many?

Ans. I don't know.

Int. Do you or not know when Antoine Roi died?

Ans. I know he died at Illinoistown, but don't recollect when, but think he died eighteen or twenty years ago.

Int. Do you or not know how many wives Simon Roi had, if any, and what were their names?

Ans. I know that he had been married twice: firstly to Margaruite Le Doux and afterwards to Mrs. (widow) Antoine Roi.

Int. How many children had he by his first wife, and what were their names?

Ans. Two; a son named Simon, and a daughter named Margaruite.

Int. State if the said Margaruite was ever married; and if so, to whom?

Ans. She was married to Paul De Longchamps.

Int. Had she or not any children with said Delongchamps?

Ans. I heard that she had two, but I never saw them.

Int. How many children had he, the said (Simon), by his second wife?

Ans. Shortly after his marriage with his second wife, she (the second wife) had a child, but I don't know whose it was.

Int. How long after Antoine's death until Simon married his widow.

Ans. About fifteen days.

Int. Do you or not know that she had been in the habit of living with Simon Roi during Antoine's lifetime.

Ans. I know that she lived with both alternately.

Int. How long after Antoine Roi's death until this child was born?

Ans. About three months.

Int. Do you or not know Mary Gendron?

Ans. I knew her from her childhood.

Int. Were you present at the time when Antoine Roi was married to her mother?

Ans. Yes.

Int. How old was she (Mary Gendron) when said Roi and her mother were married together?

Ans. About three or four months.

Int. Had she (the said Mary's mother) the reputation of indulging other men and living with them before said marriage?

Ans. She had such reputation.

Int. State whether Simon Roi, or his daughter Margaruite De Longchamps, died first.

Ans. Simon Roi died first.

her
MAGDALINE ⋈ GLODON.
mark.

And I do further certify that the preceding deposition was reduced to writing by me, and signed by the said Magdaline Glodon, and that I am not of counsel or attorney for either of the parties to said suit, nor am I interested in the event thereof.

In witness whereof, I have hereunto set my name and affixed my notarial seal, at the county aforesaid, this first day of November, A.D. eighteen hundred and fifty-four (1854).

[L. S.]

THEODORE M. WALSH,
Justice of the Peace and Notary Public.

Here plaintiff, by consent of defendant, read in evidence the deposition of said Madeline Glodon, taken September 26 (1855), which is as follows:

Deposition of Mad. Glodon.

Depositions taken by and before me, Nathaniel Niles, county judge of the county of St. Clair, in the State of Illinois, under and by authority of the annexed commission, at the residence of Mrs. Madeline Glodon, in said county, to be read in the trial of two certain causes, between William P. Bryant, plaintiff, and Richard Gregg, defendant, and between Edward P. Tesson, plaintiff, and Richard Gregg, defendant, pending in the Circuit Court of the United States for the Northern District of Illinois.

N. NILES.

Madaline Glodon, being sworn as a witness, deposes and says, in answer to interrogatories, as follows:

She being French, not understanding English, Nicholas Glodon is sworn and acts as interpreter.

Question 1. Has your deposition been taken in this cause at the instance of Charles Ballance, Esq., before T. M. Walsh, Esq., a notary public of St. Clair county? If so, state about what time the same was so taken, and at what place?

My deposition was taken by T. M. Walsh, Esq., in presence of Mr. Charles Ballance, in some cause, of which I do not recollect the parties, about one year ago, at my then residence on the bluff, near the

Grand Marais, in this county. It was concerning the heirs of Simon Roy.

Question 2. State whether, in that deposition, you was asked whether Simon Roi or his daughter Margurite died first, and if so, state what answer you gave to said question?

I said, in answer to said question which was put to me in that deposition, that Margurite Roi, daughter of Simon Roi, died four years before her father; and that her husband, Paul Delonchann, died four years before she died.

Question 3. Which did die first, Simon Roi, or his daughter Marguritte?

Marguritte died first, as I have before stated.

Question 4. If you state that Marguritte died first, state whether at her death she left any children.

I have heard that she had children, but never knew anything about them. I never knew or saw them. I knew Marguritte and her husband, Paul Delonchann, very well.

Question 5. When your deposition was taken before said Walsh, was there any interpreter present, or was any person sworn to interpret the questions to you and your answers to the questions?

Answer. The only persons present at the taking of the deposition were Mr. Ballance, Mr. Walsh, and myself. No person was sworn as interpreter.

Question 6. Were the questions put to you in the English or French languages, and in what language were your answers given, and by whom were the questions asked?

Answer. The questions were put to me in French and English, and when I said I did not understand, Mr. Walsh explained the questions in French; sometimes I did not understand his French; he speaks so badly. The questions were asked by both Mr. Walsh and Mr. Ballance. Mr. Ballance sometimes asked questions in English, and I told him I did not understand them.

Question 7. Can you speak or understand correctly the English or French languages, or either of them, and which.

Answer. I speak and understand the French. I understand a few words only of the English.

Question 8. State whether said Walsh understands and speaks the French language as you do, and whether you can well understand him when he speaks French.

Answer. He does not speak French as I do; some of his French I understand very well, and some not at all, when I first hear it. He had to repeat many words to me several times, and I understood his meaning in that language with great difficulty.

Question 9. Do you know anything else of benefit to the plaintiffs; if so, state the same, if you have not already done so in your former depositions.

I know nothing more.

Cross-examined.

Question 1. Although you may not be able to speak fluently the English language, can you not understand well enough what is said to you by others in the English language?

Answer. No, I cannot understand English well enough to know what is said to me in English. If I could understand it I would not have an interpreter.

Question 2. Does not your husband, Nicholas Glodon, understand and speak English well enough, and was he not present when said Walsh took your deposition, and did he not hear said Walsh read your deposition to you, and did he make any objection to said Walsh's translation of it?

Answer. My husband speaks pretty good English and understands it. He was not present when my deposition was taken. He came into the house when they were done taking my deposition. He was not present when it was read. He could make no objection, because he did not hear it read to me.

Question 3. Does not the said Walsh speak and translate the French language fluently? Did he not follow teaching French children the English language for years in the village of Cahokia, where nearly the whole population were French people, and did he not marry and live for years with a French wife?

Answer. He cannot talk very good French. He formerly taught school in Cahokia; French children in English; all the people in Cahokia that I know are French; Mr. Walsh married a French wife and lived with her for years, as I have heard. I never knew her as his wife; I knew her before marriage. The first time I ever saw Mr. Walsh his wife was dead.

Question 4. State if you know how many years since the death of Margaret Roi (afterwards Margaret De Longchamps) as near as you can. If you do not know, about how long was it before her husband, Paul De Longchamps, was married to Miss Chatrand as his second wife?

Answer. Margaret Roi died about 18 or 19 years ago; perhaps more, perhaps less. Her husband, Paul De Longchamps (or Delaunchann) died four years before she died, as I stated. I never heard of his marrying a Chatrand until now.

Question 5. Was not said Margaret, who married said Delongchamps, the daughter of Simon Roi?

Answer. Yes.

Question 6. Do you not know that said Antoine Roi had a wife before he married said Miss Myette, the mother of Mary Gendron?

Answer. Yes; he was married first to Francaise Livernois, who has been dead 44 or 45 years.

Question 7. Do you not know that said Mary Gendron was an ille-

gitimate daughter of said Miss Wyette, born before said Miss Wyette was married to said Antoine Roi?

Answer. When he married her she had the child in her arms, about 4 or 5 months old then. Antoine Roi always recognized the child as his own. I resided about three or four hundred yards from them at Portage Des Sioux.

Question 8. Were you not at the wedding of Antoine Roi and Miss Wyette, and did you not see Mary Gendron at said wedding?

Answer. I saw Mary Gendron in the arms of her mother the day she was married; she was the said child of said Miss Wyette.

Question 9. Was not said Miss Wyette reported to be and recognized by and among her neighbors as a woman of bad and lascivious character? and was not this her character so general and universal that you never heard it disputed? If you ever heard one person dispute this fact, please name him or her, and the time he or she first disputed it.

Ans. I never knew the woman to be of such a character, and never heard she was so. I never heard such a character imputed to her, nor disputed of her. She had her child in her arms when she was married; that is all I know.

Ques. 10. Do you not know that it was Simon and not Antoine Roi that raised Mary Gendron, and that he and said Miss Myette recognized said Mary as their child as other people do their children.

Ans. Miss Myette, after the death of Antoine Roi, married Simon Roi. Simon Roi treated Mary as his niece, and she called him uncle. She lived with him and her mother after they married.

Ques. 11. Do you not know that said Antoine Roi had a son named Ambrose, who was married to a Miss Labbadie?

Ans. I do not. I knew one son of Antoine Roi, who died in the Missouri country. I do not know his name; nor that he was ever married.

Ques. 12. Do you not know that Josette Latour, daughter of said Antoine Roi, was married to Balthasar Latour, and had children by him; and is not Louis Latour one of said children?

Ans. Yes; she had Louis Latour, who died in the Missouri country about 16 years ago, never having been married. I knew no other children.

Ques. 13. Do you not know that previous to the birth of Mary Gendron, her mother, Miss Myette, lived in Portage Des Sioux, in the State of Missouri, and that at the time when, according to the course of natural generation, Mary Gendron must have been begotten, neither said Antoine nor said Simon were residing there, nor in said State?

Ans. When I first knew the mother of Mary Gendron, she resided in Portage Des Sioux, Missouri. Antoine Roi then lived there, and Simon Roi, in Cohokia. When I first came to Portage Des Sioux

from Peoria, Antoine Roi was living there, and Simon was in Cohokia. They both left Peoria before the war.

her
MADELINE ⋈ GLODON.
mark.

State of Illinois, County of St. Clair, *sct.*

I, Nathaniel Niles, county judge of said county, hereby certify that the foregoing deposition of Madeline Glodon was taken before me, at the residence of said Madeline, as stated in the caption thereof, this 25th day of September, A.D. 1855; that at the said time and place the said deposition was subscribed and sworn to before me by said Madeline, the said witness, the same having been reduced to writing by me, and that I am not interested nor a counsel in the causes in which the same was taken, nor in either of them.

In witness whereof I have hereto set my hand on the day last above written.

NATHL. NILES.

Additional answer of Madeline Glodon to the 12th interrogatory (cross), propounded to her by the defendants in the above entitled causes, viz.:

Do you not know that Josette Latour, a daughter of Antoine Roi, was married to one Belthazar Latour, and had children by him? and is not Louis Latour one of said children?

In addition to the answer already made and written in her deposition, the said witness, Madame Madeline Glodon, wishes to make the following additional statement, to wit:

I never knew that Belthasar Latour had a son by his second wife, but I heard about 24 or 25 years ago that he had one.

I never heard his name. He would now be about 26 or 27 years of age. Belthasar Latour had by his first wife, Josette Roi, a son and a daughter. The son was called Louis. I do not remember the name of the daughter. I never knew her name. She, the daughter, would now be about 50 years old, if living, and the son about 48 years of age, if living.

her
MADELINE ⋈ GLODON.
mark.

The foregoing supplemental deposition of Madame M. Glodon, was taken by and before me at her residence in said county, on this 6th day of October, A. D. 1855, and was subscribed and sworn to before me by said witness, having been reduced to writing by me, under the

authority of the commission hereto attached, to be read in evidence in the causes above entitled, as witnesses my hand on the day last aforesaid.

NATHL. NILES.

Defendants next read the depositions of

T. M. Walsh, Susan Marley, Bridget Bequet; taken by Dubried.
Aspasia Johnson; taken by deft. on dedimus.
A. M. Braley, Madeline Glodon; taken May 16, 1855.
Francis Loncin, Stephen Delisle; taken January 31, 1857.
Which depositions are as follows:

Deposition of T. M. Walsh.

Circuit Court of the United States, Northern District of Illinois.

WILLIAM P. BRYANT
v.
RICHARD GREGG. } In Ejectment.

Charles Ballance, of Peoria, being sworn, says, that he is virtually the defendant in the above-entitled cause (said Gregg being his tenant), and that he is his own attorney in the defence thereof, and that he verily believes that the testimony of Theodore M. Walsh is material and necessary to the defence of said suit; that the said Theodore M. Walsh lives in Cahokia, in the county of St. Clair, in said State, about three hundred miles from the city of Chicago, where the court, at which said suit is expected to be tried, is appointed by law to be held.

Deponent further says, that he is informed and believes that William P. Bryant, the above-named plaintiff, resides at Rockville, about two hundred miles from Bellville, in said county, the place where the examination of said witness is expected to be taken: and that, as he is also informed and believes, Norman H. Purple, the attorney of said Bryant, resides at *at* Peoria, about one hundred and seventy miles from said city of Bellville.

C. BALLANCE.

Sworn to before me, the clerk of the Circuit Court of Peoria County, in the State of Illinois, this 11th day of August, A.D. 1855.

Witness my hand and the seal of said court, at my office in
[L. S.] Peoria, at the date last aforesaid.

JACOB GALE,
Clerk.

Ejectment.

United States Circuit Court for the Northern District of Illinois.

WILLIAM P. BRYANT
v.
RICHARD GREGG.

Let Theodore M. Walsh, the witness named in the above affidavit, be examined de bene esse, before me accordingly, at my office, in said city of Bellville, at six o'clock on the 23d day of August, 1855.

Be it remembered, that at the time last aforesaid, at the place last aforesaid, Charles Ballance filed with me, Theodore Engelmann, who am a notary public of said county, the foregoing affidavit, and requested that the said Theodore M. Walsh might be examined de bene esse, pusuant to the act of Congress in such case made and provided, as a witness in behalf of the defendant in said cause. Whereupon, I made the above order for the taking thereof. And thereupon, the said Theodore M. Walsh, being produced before me, at the time and place last aforesaid, I proceeded with his examination.

And the said Walsh being by me carefully cautioned, examined, and duly sworn to testify the whole truth and nothing but the truth, testified as follows, to wit:

1. I have resided for the last seven years among French people; for the last five or six years in the village of Cahokia, in the county of St. Clair and State of Illinois, where none but the French language is seldom spoken; taught French children in English most of that time. I was married for about three years to a woman who was French (or of French descent), and who spake little but in the French language. I understand the French language and can converse in it very well.

2. I know Magdeline Glodon and her husband. I took her deposition some time since in the case. Her husband understands and speaks English very well. He was present when I took her deposition; heard me reading the same to her, and made no objection thereto.

She said something about her previously stating, in giving her deposition, that she had stated that Mary Gendron was born before her (Mary's) mother was married to Simon Roi; the reason she stated, that the said statement was not written, I do not now recollect.

THEODORE M. WALSH.

And I, the said Theodore Engelmann, being such notary public of said county of St. Clair and State of Illinois as aforesaid, do further certify, that the preceding deposition was reduced to writing by said witness, and signed by the said Theodore M. Walsh; and that I am not of counsel or attorney for either of the parties to said suit, nor am I interested in the event thereof.

In witness whereof, I have hereunto set my name, and affixed my notarial seal, the twenty-third day of August, A.D. one thousand eight hundred and fifty-five. [L. S.]

THEOD. ENGELMANN.

The depositions of Susan Marly and Bridget Bequet, taken before me, Etienne A. Dubrieuil, under a commission issued by the United States Circuit Court for the Northern District of Illinois, dated at Chicago, Illinois, July 10th, 1857, upon interrogatories and cross-interrogatories annexed to said commission, to be used in evidence in a certain cause pending in said court, wherein William P. Bryant is plaintiff and Richard Gregg is defendant; said depositions taken at the instance of the plaintiff and defendant in said suit:

Deposition of Susan Marly.

Madame Susan Marly, of lawful age, being first carefully examined, cautioned, and sworn to tell the whole truth, deposes and says as follows, in answer to the interrogatories and cross-interrogatories annexed to the commission:

Question 1st. Did you or not ever know a man by the name of Etienne Papin, who lived at Portage des Sioux, in the State of Missouri, whose wife was named Marie Louise?

Answer. I knew Mr. Etienne Papin; but I did not know his wife, Marie Louise. Mr. Etienne Papin was my uncle.

Question 2d. If you state that you knew such a man, state whether he is dead or alive. And if dead, where did he die?

Answer. He is dead. I believe he died at the Portage des Sioux.

Question 3d. State, if you know, whether said Papin had any children by said wife. And if he had, what were their names? and are they or any of them, and which of them, alive?

Answer. He had three children by his first wife and two by his second wife. He had two boys by his first wife; the name of one was Louis and that of the other was Antoine, and a daughter named Poupoune. I do not know if any of the children by his first wife are alive. He had two children by his last wife: one daughter, by the name of Thereze; and a son, by the name of Antoine. Thereze is

alive; does not know what has become of Antoine. I have not heard from him for many years.

Question 4th. State what relationship, if any, you bear to said Etienne Papin. State whether he has ever lived in the same house with you, or you in the same house with him?

Answer. He was my father's brother. I do not know whether he ever lived in same house with me, or I in the same house with him. I do not recollect anything about it.

Question 5th. State whether you know any other matter or thing that will be of advantage to defendant? If yes, state it.

Answer. I do not know that I do.

Question 6th. To said Mrs. *Mrs.* Marley alone.

State whether you raised one of the daughters of said Papin, and if yes, whether she is dead or alive, or if you do not know, when did you see her last?

Answer. I did not raise her myself, but my mother raised her. I believe she is alive. I saw her last year in Cahoka; last year, at my sisters.

Question 7th. If in answer to the 4th cross-interrogatory, you express any doubts as to said Papin's wife being the daughter of Antoine Roy, I ask if you did not tell Charles Ballance, without knowing the use he meant to make of said information, that Etienne Papin's wife was the daughter of Antoine Roy. I further ask whether she was not raised by said Roy as his daughter, and acknowledged to be such by him, and whether she was not reputed to be his daughter by all her neighbors and relatives?

Answer. I told Mr. Ballance I did not know anything about it; all I know is that Etienne Papin was married to Miss Roy, his last wife, and I know this from its having been told me by father and mother. I knew my uncle, but I did not know either of his wives. I was then young, and do not know whether or not Antoine Roy acknowledged her as his daughter, or whether or not she was so reputed to be by her neighbors and relatives, or whether or not she was raised by Roi as his daughter.

Cross-interrogatory 1st. What is your name, age, place of residence, and occupation?

Answer. *Mame* is Susan Marly; I am fifty-six years of age; I reside in the city of St. Louis, on Plum street, number thirty-six; my occupation is to sew and work.

2d Interrogatory. Where were you born, and where have you resided since that time, so far as you remember, and how long, and from what periods of time at each particular place?

Answer. I was born in St. Charles. I have resided at St. Charles, at the Portage des Sioux, and at St. Louis. I do not know how long I lived at St. Charles. I do not know how long I lived at the Portage. I am here in St. Louis since seventeen years.

3d Interrogatory. Do you or not know a man by the name of Charles Ballance, who resides at Peoria in the State of Illinois? Did any such person ever call on you in St. Louis, and if so, when? or did any person ever call on you within the last two months, and inquire anything about Etienne Papin or Antoine Roy, or the descendants or children of either, and if so, what did he say, and what did you say in relation to the matter? State the whole conversation which passed between you and such person on this subject.

Answer. I may have seen him, but I do not know him by name. He may have called on me. I do not know. A gentleman called upon me within the last two months, and inquired about Etienne Papin and Antoine Roy, and their descendants and children. I told him I knew my uncle Etienne very well; that he was dead. I told him that I had heard that he was married to a Miss Roy, but I do not what Miss Roy. He asked me questions, and I said I did not know. I told him I had no knowledge of the wives of Etienne Papin; I never saw them. I do not remember anything else that took place in the interview he had with me.

3d Interrogatory. Did you ever tell said Ballance or any other person that Etienne Papin married the daughter of Antoine Roy? or they having been so married, had one child living?

Answer. I did not, but I told him that he had married a Miss Roy. There were a great many Roys in the Portage. I told him that he three children by his first wife, and two by the second.

4th Interrogatory. Do you not know that the wife of Etienne Papin was the daughter of the first wife of Antoine Roy, by a former husband, and that her name was Marie Louise Livernois, and that she was not the daughter of Antoine Roy, and did you not so state and inform Mr. Charles Ballance, or the man conversed with you upon the subject, at the time of such conversation?

Answer. I do not know that the wife of Etienne Papin was the daughter of the first wife of Antoine Roy, by a former husband, nor that her name was Marie Louise Livernois, nor that she was not the daughter of Antoine Roy; neither did I so state it to Mr. Charles Ballance, or the man with whom I had a conversation upon the subject.

5th Interrogatory. How much money (if any) did the said Charles Ballance propose to pay you to testify in this case, and what did he say to you in relation to your fees and charges or trouble in the matter?

Answer. Mr. Charles Ballance, or the gentleman who called upon me did not propose to pay me any money to testify in this case, but he told me that if I would go with him opposite to the post office to have my deposition taken, he would pay me for my trouble, as I had told him that I had too much work on hand at home.

6th Interrogatory. Did you refuse to give your testimony in the case, at the time of your interview with Mr. Ballance, or the person

who called you for that purpose, and if so, for what reason was such refusal made?

Answer. I refused to go with him because I thought he had no one who could interpret the French into the English correctly. If he had compelled me to go with him, I would have required a good interpreter.

7th Interrogatory. In what street and what number of such street do you reside, and how long have you resided there?

Answer. In Plum street, number thirty-six. I have resided here ever since I have been in St. Louis.

8th Interrogatory. Do you understand the English language?

Answer. I do not understand it.

9th Interrogatory. Has any person been sworn as interpreter in taking your deposition? if so, who, and where does he reside?

Answer. Yes. Mr. E. A. Dubreuil was sworn to interpret me a few days ago. He resides at Mr. Desilet's.

10th interrogatory. Do you know anything else of benefit to either party?

Answer. No.

her
SUSAN ⋈ MARLY.
mark.

Witness,
E. A. DUBREUIL.

Deposition of Bridget Bequet.

Bridget Bequet, of lawful age, being first carefully examined, cautioned, and sworn to tell the whole truth, deposes and says as follows, in answer to the interrogatories and cross-interrogatories annexed to the commission.

Question 1st. Did you or not ever know a man by the name of Etienne Papin, who lived at Portage des Sioux in the State of Missouri, whose wife was named Marie Louise?

Answer. I know a man named Etienne Papin, who lived at Portage des Sioux in the State of Missouri; his wife was a Miss Roy. I do not remember that she was called Marie Louise.

2d Question. If you state that you knew such a man, state whether he is dead or alive, and if dead when did he die?

Answer. Etienne Papin died a long time ago. I do not remember at what time he died; I was not at the Portage.

3d Question. State, if you know, whether said Papin had any children by said wife, and if he had what were their names, and are they or any of them and which of them alive.

Answer. Etienne Papin had two children by her; of them was called Thereze and the other I believe was called Antoine. Thereze is alive, and lives on the other side of the river. I do not know whether Antoine is alive or not.

4th Question. State what relationship, if any, you bear to the said Etienne Papin? State whether he has ever lived in the same house with you or you with him?

Answer. Yes, Etienne is my cousin on my grandmother's side. He resided a long at my father's house after he had lost his first wife.

5th Question. State whether you know any other matter or thing that will be of advantage to defendant; if yes, state it?

Answer. I do not know anything but that.

6th Question. Answer. { This question and answer is left blank in the original. B.

7th Question. If in answer to the 4th cross-interrogatory you express any doubts as to said Papin's wife being the daughter of Antoine Roy, I ask if you did not tell Charles Ballance, without knowing the use he meant to make of said information, that Etienne Papin's wife was the daughter of Antoine Roy?

I further ask whether she was not raised by said Roy as his daughter, and acknowledged to be such by him; and whether she was not reputed to be his daughter by all her neighbors and relatives?

To Mrs. Bequet I would ask: did you or not tell Henry Lassieur, a justice of the peace of Missouri, and a Frenchman, that said Papin's wife was the daughter of Antoine Roy.

Answer. I thought she was the daughter of Antoine Roy. I would not make an oath that she was the daughter of Antoine Roy, but I believe she was. There were two Roys, one of them was called by the soubriquet of Gros Roy, and the other by that of Petit Roy. I believe his right name was Antoine Roy, and that he was the father of Etienne Papin's wife. I have always heard that she was reputed to be the daughter of Le Petit Roy, by all the citizens of the Portage des Sioux. I have never heard her called otherwise than as the daughter of Le Petit Roy. I told Lassieur that she was a daughter of Le Petit Roy, and that I believe his name to be Antoine Roy.

Cross-Interrogatories by Plaintiff.

1st Question. What is your name, age, place of residence, and occupation?

Answer. My name is Bridget Bequet; I was fifty-five years of age the eleventh of last June; I reside in St. Louis, Missouri; my occupation is take care of my household.

2d Question. Where were you born and where have you resided since that time, so far as you remember, and how long and from what periods of time at each particular place.

Answer. I was born in St. Charles; I always resided at the Portage up to the age of eighteen years, about which time I married Jean Lambert, my first husband, and have resided at St. Louis ever since.

3d Question. Do you or not know a man by the name of Charles

Ballance, who resides at Peoria, in the State of Illinois? Did any such person ever call on you in St. Louis, and if so, when, or did any person ever call on you within the last two months, and inquire anything about Etienne Papin or Antoine Roi, or the descendants or children of either, and if so, what did he say, and what did you say in relation to the matter? State the whole conversation which passed between you and such person on this subject.

Answer. I do not know a man by the name of Charles Ballance, but there was a man who came here to ask me some questions with regard to this matter. I did not mark the time at which he came. I could not even tell the month in which he came. He came to see me twice. It is more than two months since he came the first time; it is about a month since he came the second time. I was not at home the second time he came; I was at New Bremen on a visit to my sister. He came up there to see me, but he did not get to see me. My niece told me he had come to see me the second time.

The first time he came to see me he asked me some questions about Etienne Papin. I told him that Etienne Papin had married a Petit Roy. He asked me if it was Antoine Roy's daughter he married? I told him I did not know for certain that his name was Antoine Roy; I told him that anciently the French were not called by their given names, but had sobriquets. I do not remember anything else at present. I did not tell Ballance or any other person that Etienne Papin had married the daughter of Antoine Roy; I told him Etienne Papin had married a daughter of Le Petit Roys, and that they had two children, one of whom is living, but I did not know what has become of the other.

4th Question. Do you not know that the wife of Etienne Papin was the daughter of the first wife of Antoine Roy by a former husband, and that her name was Marie Louise Livernois, and that she was not the daughter of Antoine Roy, and did you not so state and inform Mr. Charles Ballance, or the man who conversed with you upon the subject at the time of such conversation.

Answer. No.

5th Question. How much money (if any), did the said Charles Ballance propose to pay you to testify in this case, and what did he say to you in relation to your fees and charges or trouble in the matter?

Answer. He never spake to me of money, or of my fees, charges, or trouble in the matter.

6th Question. Did you refuse to give your testimony in the case at the time of your interview or interviews with Mr. Ballance, or the person who called on you for that purpose, and if so, for what reason was such refusal made?

Ans. I did not refuse to give my testimony; I told him all I knew about the case.

7th Ques. In what street and what number of such street do you reside, and how long have you resided there?

Ans. I live on Provluchere street; I have no number on my door. I will have resided here eight years next fall.

8th Ques. Do you understand the English language?

Ans. Very little; I do not speak it.

9th Ques. Has any person been sworn as interpreter in taking your deposition; if so, who, and where does he reside?

Ans. Mr. E. A. Dubrieul was sworn as interpreter on a former occasion with regard to this matter, but I do not know that he has been sworn on this occasion.

10th Ques. Do you know anything else of benefit to either party?

Ans. I know nothing else that would be of advantage to either party.

her
BRIDGET ⋈ BEQUET.
mark.

I, Etienne A. Dubrieul, one of the commissioners named in a commission issued by the Circuit Court of the United States for the Northern District of Illinois, dated July 10th, 1857, which is hereto annexed, do hereby certify that the deponent, Susan Marly, came before me, at her dwelling-house, on Plumb street, between Main and Second streets, in the city and county of St. Louis and State of Missouri, on the 13th day of July, 1857, and was by me examined upon the interrogatories and cross-interrogatories annexed to the commission referred to in the caption, and herewith returned; that said interrogatories and cross-interrogatories and the deponents' answers thereto, were by me reduced to writing in the presence of the deponent, and the whole was subscribed by the deponent in my presence by making her mark. I further certify, that the deponent, Bridget Bequet, in like manner came before me, at her dwelling-house on Provonchere street, between Hickory streets and Chouteau avenue, in the city and county of St. Louis, and State of Missouri, on the 14th of July, 1857, and was by me likewise examined upon the said interrogatories and cross-interrogatories; and that said interrogatories and cross-interrogatories, and the deponent's answer thereto, were by me reduced to writing, in the presence of the deponent, and the whole was subscribed by the deponent, by making her mark in my presence.

I further certify that both of said deponents, before being examined, were by me duly sworn to testify the whole truth of their knowledge touching the matter inquired of in the suit, wherein William P. Bryant is plaintiff, and Richard Gregg is defendant; that said interrogatories and cross-interrogatories were by me propounded to the witnesses in the French language, and that their answers were given in the French language; that I myself being familiar with the French

and English languages, acted as interpreter, having first taken an oath truly to interpret French into English and English into French, which said oath in writing, with a certificate that it was subscribed and sworn to by me, is hereto annexed.

The said commission, interrogatories, and cross-interrogatories, and depositions, are herewith returned.

In witness whereof, I hereto set my hand and private seal, this fifteenth day of July, 1857.

ETIENNE DUBREUIL, [SEAL.]
Commissioner.

Deposition of Aspasia Johnson.

United States of America, Northern District of Illinois, *ss.*

WILLIAM P. BRYANT
v.
RICHARD GREGG.

The deposition of Aspasia Johnson, taken at the office of Henry Lesieur, in the village of Portage des Sioux, in the county of St. Charles, State of Missouri, at two o'clock, on the 19th day of December, 1855, pursuant to the annexed commission and interrogatories. Said Aspasia Johnson being produced before me at the time and place aforesaid, and having been by me sworn true answers to make, and the whole truth and nothing but the truth to speak, in answer to all the annexed interrogatories, answered as follows, to wit:

1st. State how long you have resided, if ever, in the village of Portage des Sioux and its immediate vicinity.

In answer to interrogatory No. 1, she says:

"Ever since I can remember."

2d. Did you ever know two brothers, by the name of Simon Roi and Antoine Roi, to live at Portage des Sioux? If yes, about what time did you know them there; and where did they come from when they came there, and where did they go to when they left there.

In answer to question No. 2, she answers as follows:

I knew two men here by the name of Simon Roy and Antoine Roy, I believe about 1815, or before, or after. I do not know where they went to when they left here. I understood that they came from Peoria.

3d. Had said Antoine a wife when he came there, and what became of her? If he had said wife when he came there, had she any child or children, and if yes, what were their names, if you know?

In answer to question No. 3, she says as follows:

I know that he was a housekeeper, but I was not acquainted with his family.

4th. Did you know a woman by the name of Maria Louise Mittiet

(pronounced Meyett), who resided at Portage des Sioux? If yes, state whether she was ever married to said Antoine Roy after the death of his first wife; or did she live with him as his wife?

In answer to question No. 4, she says as follows:

I knew Miss Millet, but I do not know whether she was married to Antoine Roy or lived with him.

5th. If you say said Miyett was married to said Antoine Roi, or lived with him as a wife, state whether or not she had a daughter called Mary before she lived with him, and before she pretended to be his wife?

In answer to question No. 5, she says as follows:

I knew that she had a daughter while she lived with her sister the wife of Louison Roy, and before she was married to anybody.

6th. Do you know where said Mary now lives and to whom she is married? If yes, state.

In answer to interrogatory No. 6, she says as follows:

I do not know.

7th. State, if you know, who was the father of said child Mary, the daughter of said Miss Miyette?

In answer to interrogatory No. 7, she says as follows:

"I do not know."

8th. If you do not know positively who was the father of said child, state (if you know) who was its reputed father.

In answer to interrogatory No. 8, she says as follows:

I do not know; she lived with Louis Roy and his wife, and some persons suspected him to be the father of the child.

9th. Do you or not know that one Louis Roi, and not Antoine Roi, was her father it?

In answer to interrogatory 9, she says as follows: "I do not know."

10th. If you say you do not know that said Louis Roi was the father of said Mary, do you or not know that said Lois was reputed to be her father?

In answer to interrogatory No. 10, she says as follows: "I know that some persons suspected him."

11th. Did you or not ever hear either said Antoine, Louis, or said Miss Miyett allege, or pretend, before said Miyett went to live with said Antoine, that he, said Antoine, was the father of said child, or deny that said Louis was her father?

In answer to interrogatory No. 11, she says as follows: I have no recollection of it.

12. Do you, or do you not, know that said Louis procured said Antoine, after said child was born, to marry the mother and adopt the child, to relieve him, the said Lois, and said Miss Miyett from disgrace?

In answer to interrogatory No. 12, she says as follows: I do not know.

13th. If you say you do not know that fact, was it or not currently reported to be the fact throughout the neighborhood?

In answer to interrogatory No. 13, she says as follows: I do not recollect.

14th. Did you or not ever hear either of said parties deny said charge?

In answer to interrogatory No. 14, she says as follows: I do not recollect.

15th. What was the character (if you know) of said Miss Miyett for chastity and virtue?

In answer to interrogatory No. 15, she says as follows: "She bore a good character until she had her child."

16th. Did, or did not, said Miss Miyett live with said Louis Roi, and not with said Antoine Roi, at the time of the birth of said child, and for more than nine months previously thereto?

In answer to interrogatory No. 16, she says as follows:

She lived with her sister and her sister's husband, Louis Roy, when the child was born, and for years before.

17th. Did, or did not, said Louis Roi, Antoine Roi, an Miss Miyette know that it was currently reported in said neighborhood that said Louis was the father of said child, and that said Louis procured said Antoine to marry said Miss Miyette and adopt said child?

In answer to interrogatory No. 17, she says as follows: I do not know.

18th. If you say you do not know that they knew said facts, were they or not so currently reported, and so much talked about, that they could not well have avoided knowing that such reports were current?

In answer to interrogatory No. 18, she says as follows: I do not recollect.

19th. Was your acquaintance with said parties, and the people in said neighborhood, sufficiently intimate at that time to enable you to speak knowingly on the subject?

In answer to interrogatory No. 19, she says as follows: I was acquainted with Miss Millet before the occurrence took place, but not after.

20th. Do you know any other matter or thing that would be of any advantage to either of the parties aforesaid? if so, state it.

In answer to interrogatory No. 20, she says as follows: I do not know.

Cross-interrogatories, to be propounded to Aspasia Johnson.

1. Do you not know that the mother of Mary Gendron and Antoine Roi lived and cohabited together, as husband and wife, at Portage de Sioux, and that said Mary lived with them there, and was reported to be their daughter, and acknowledged and called so by

them? Have you not often heard them call her their daughter, and her call them father and mother?

In answer to 1st cross-interrogatory propounded by N. H. Purple, plaintiff's attorney, and hereto attached, she answered:

I do not know, and never knew, the parties after they left here; I was never acquainted with Miss Millet after she had her child.

2. Do you not know that the mother of Mary and said Antoine Roi lived and cohabited together, as husband and wife, in St. Clair county, Ill., and that said Mary Gendron lived with them there, and was reputed, known, and acknowledged to be their daughter, both by them and by their neighbors and acquaintances generally.

In answer to the 2d cross-interrogatory, she says: I never knew them there.

3. What is your age and occupation?

In answer to the 3d cross-interrogatory, she says: I was born the 30th January, 1800; my occupation is to sew and raise my family; and further this deponent saith not.

ASPASIE JOHNSON.

Deposition of A. M. Braley.

Be it remembered, that on the 18th day of August, A.D. 1854, at Peoria, county of Peoria, and State of Illinois, personally appeared before me, judge of the Tenth Judicial Circuit Court of the State of Illinois, Norman H. Purple, and made affidavit that he was one of the attorneys for the plaintiff in a suit then depending in the Circuit Court of the United States for the District of Illinois, wherein William P. Bryant was plaintiff and Richard Gregg defendant; that the testimony of Samuel Drinon, Ralph Hamlin, Charles Kettelle, and A. Morton Braley was material and necessary for the said plaintiff in the prosecution of said suit, and that each of the said witnesses lived in the county of Peoria, more than one hundred miles from Chicago, where the court at which he, the said plaintiff, expected the said cause would be tried, was appointed by law to be held, and that Richard Gregg, the said defendant, and Charles Ballance, Esq., his attorney, both reside at Peoria, in the State of Illinois, about one hundred and sixty miles from Chicago aforesaid, and I was requested, in behalf of the said plaintiff, that the said witness might be examined according to the directions of the act of Congress in such case made and provided.

Whereupon, I ordered that the said witness should be examined *de bene esse* before me at the office of the clerk of the County Court of Peoria county, at the court-house, in the city and county of Peoria, and State of Illinois, on the 2d day of September, A.D. 1854, at eight o'clock A.M. of said day, and that one day's notice should be given to the said defendant, or his attorney, of such examination, to the end that he might, if he should see fit, be present at the examination and

put interrogatories; and I, having satisfactory proof that such notice had been given, and as well the said plaintiff, by his attorney, as the said defendant, by his attorney aforesaid, appearing before me, at the office of the clerk of the County Court of Peoria County, at the court-house, in the city and county of Peoria, and State of Illinois, on this 2d day of September, A.D. 1854, at eight o'clock A.M. of said day, I have therefore proceeded with said examination.

And the said A. Martin Braley, being first carefully examined and cautioned, and duly sworn to testify the whole truth and nothing but the truth, saith, that the plat hereto attached, marked "A.," and made a part of this deposition and of his evidence, represents French claims thirty-three and twenty-nine in the village of Peoria, laid down upon lots one, eight, seven, and six, in block No. sixty-seven, and on lot four, in block forty-seven, in Ballance addition to Peoria.

The French claims aforesaid being indicated by the *red* lines on the plat, and the lots aforesaid by the *block lines*.

That the said Braley is engineer and surveyor of the city of Peoria, and made the survey and plat aforesaid from the original survey of the French claims, approved by the surveyor-general of Missouri and Illinois, and also from the record of Ballance's addition, as recorded in Peoria county, and that he made an actual measurement of the ground according to said surveys, which measurement and survey was made in the month of May last. That Richard Gregg, the defendant, has been in possession of said French claims, No. 33 and 29, since November, A.D. 1853.

A. MORTON BRALEY.

And I do further certify, that the preceding deposition was reduced to writing by me, and signed by the said A. Morton Braley, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

H. M. WEAD,
Judge 10th Judicial Circuit, Illinois.

Deposition of Mad. Glodon.

Be it remembered, that on the 16th day of March, A.D. 1855, application was made to me, Narcisse Pensoneau, a notary public in and for the county of St. Clair, and State of Illinois, upon the affidavit of Norman H. Purple, stating that he was the counsel and attorney for the plaintiff, in a suit then pending in the Circuit Court of the United States for the Northern Circuit and District of Illinois, wherein William P. Bryant was the plaintiff, and Richard Gregg, defendant, that the further testimony of Madeline Glodon, whose testimony has heretofore been taken in said cause, was material and necessary in said cause for the plaintiff, in the prosecution of the same.

That the said Madeline Glodon lived in St. Clair county, in the State of Illinois, more than one hundred miles from Chicago, where the court at which said deponent expected the said cause would be tried was appointed by law to be held, and that Richard Gregg, the defendant, and Charles Ballance, his attorney, both resided at Peoria, about two hundred miles from St. Clair county, where the examination of said witness was expected to be taken, and about one hundred and sixty miles from Chicago, aforesaid, where the court at which said deponent expected said cause to be tried was appointed by law to be held, and I was requested on the behalf of the said William P. Bryant, that the said Madeline Glodon might be examined according to the directions of the act of Congress in such case made and provided.

Whereupon I ordered that the said Madeline Glodon should be examined *de bene esse*, before me, at her residence in St. Clair county, Illinois, on the 16th day of May, A.D. 1855, at 2 o'clock P.M. of said day, and the said Madeline Glodon, appearing before me, at her residence in St. Clair county, Illinois, on the 16th day of May, A.D. 1855, at 2 o'clock P.M. of said day, I have therefore proceeded with the said examination.

And the said Madeline Glodon, being carefully examined and cautioned, and duly sworn to testify the truth, the whole truth, and nothing but the truth, saith:

That she is now 61 years of adge, and a resident of St. Clair county, State of Illinois. That she resided in the village of Peoria, Illinois, from the year 1806, to 1812. That her and her first husband, Antoine Lapansia, then left Peoria with anther inhabitance of said place, and stopped at Portage des Sioux, whare they remained from the fall of 1812, to March, 1813.

That while residing in Peoria she was acquainted with Antoine Roi, who was reputed to be married. That about the winter of 1813, he, Antoine Roi, after removing to Portage Da Sue, said Roi and his wife, who was a Meyette, was married at Portage Da Sue (legally, as she was informed). That said Roi had two children, who died without issue; that while at Portage De Sue, said Roi's wife had one child, a daughter, who was named Mary; that about the spring of 1813, that herself and husband, Lapancu, removed to St. Clair county.

And that about fifteen years after, said Antoine Roi, and wife, and daughter Mary, also removed to Illinoistown, in said county of St. Clair. That some three or four years after moving, said Roi died, leaving his widow and said daughter Mary; some years after, the said widow died. The said Mary, their daughter, then married Tussent Gendron; that said Mary and Gendron, her husband, are now living in said county of St. Clair, and are the only surviving heirs of the said Antoine Roi; that she was well acquainted with said Roi; that he had one brother Simon, but had no other brother

or sister, or descendants of either brother or sister; that the only survivor of either said Antoine or Simon Roi is said Mary Gendron. Further states that she knows of no other matter of interest to the parties in said suit.

her
MADELINE ⋉ GLODON.
mark.

Subscribed and sworn to before me, this 16th day of May, A.D. 1855.

[L. S.] NARCISSE PENSONEAU,
Notary Public St. Clair Co., Illinois.

And I do further certify that the preceding deposition was reduced to writing by me, and signed by the said Madeline Glodon with her mark, and that I am not of counsel or attorney for either of the parties to said suit, nor am I interested in the event thereof.

Witness my hand and official seal at the county of St. Clair, in the State of Illinois, this 16th day of May, A.D. 1855.

[L. S.] NARCISSE PENSONEAU,
Notary Public, St. Clair County, Illinois.

Deposition of Fr. Soucier.

Deposition of witnesses, produced, sworn and examined, on the 31st day of January, A.D. 1857, between the hours of eight o'clock in the forenoon, and six o'clock in the afternoon of that day, at the storehouse and place of business of Francis Lasauien, in the city of St. Joseph, in the county of Buchanan, and State of Missouri, before me, William Hughes, a notary public within and for the county of Buchanan, in the State of Missouri, in a certain cause now pending in the United States Circuit Court, Northern District of Illinois, between William P. Bryant, plaintiff, and Richard Gregg, defendant, on the part of the defendant.

Francis Soucier, of lawful age, being produced, sworn and examined on the part of the defendant, deposeth and saith as follows:

I am a resident of and reside in the city of St. Joseph, in the county of Buchanan, and State of Missouri, and have resided here about six years.

I formerly resided in Portage des Sioux; I was there acquainted with one Antoine Roi of same place. I also knew and was acquainted with one Etienne Papin of said Portage des Sioux; I do not know that he was twice married; but whether it was his first or second wife who was the daughter of Antoine Roi, I cannot say in my own mind. In fact deponent does not know whether he was married twice or not. Does not know that he married a daughter of Antoine Roi positively, but am satisfied he did.

FR. SOUCIER.

Sworn to and subscribed before me, this 31st day of January, 1857.

WILLIAM HUGHES,
Notary Public.

State of Missouri, County of Buchanan, *ss.*

I, William Hughes, a notary public, within and for the county of Buchanan, in the State of Missouri, do hereby certify that in pursuance of the annexed affidavit of Allem H. Vene, came before me Francois Soucier, at his store and place of business, at the city of Saint Joseph, in the county of Buchanan, in the State of Missouri, whose place of residence is in the city of St. Joseph, who was by me sworn to testify the whole truth of his knowledge touching the matter aforesaid in controversy between said parties mentioned in the caption hereof, that said witness was duly examined, and his examination reduced to writing in my presence, and sworn to and subscribed by him in my presence, on the day, between the hours, and at the places in that behalf aforesaid mentioned in the caption hereof, and his said deposition is herewith returned; and I further certify that said Francis Soucier is a resident of St. Joseph, Buchanan county, Missouri.

In witness whereof, I have hereunto set my hand and affixed my seal of office, at St. Joseph, this 31st day of January, [L. S.] 1857.

WILLIAM HUGHES,
Notary Public.

Deposition of Stephen Delille.

United States of America, Northern District of Illinois.

WILLIAM P. BRYANT
v.
RICHARD GREGG. } In Ejectment.

The deposition of Stephen Delille, taken at the office of Henry Le Sieur, in the town of Portage des Sioux, in the county of St. Charles, in the State of Missouri, at ten o'clock, A. M., on the 31st day of January, in the year of our Lord 1857.

Said Stephen Delille, being produced before me at the time and place aforesaid, and having been by me duly sworn true answers to make, and the whole truth, and nothing but the truth, to speak in answer to the annexed interrogatories and cross-interrogatories, answered as follows, to wit:

1st. Where do you reside, and how long have you resided there?

In answer to interrogatory No. 1, he says:

I have resided in this place, Portage des Sioux, since the year 1813.

2d. Did you ever know one Etienne Papin?

In answer to interrogatory No. 2, he says:

I have known one Etienne Papin, who had a son also named Etienne Papin; I have known both.

3d. If you say you have known Etienne Papin, say where you first knew him; and if you have heerd of him since you saw him, state where he was at that time?

In answer to interrogatory No. 3, he says:

I first knew Etienne Papin (the father) at Saint Charles, in this State; the last time I heard of him he was in Saint Louis.

4th. State if you know whether said Papin is dead or alive?

In answer to interrogatory No. 4, he says:

He is dead.

5th. Were you acquainted with the wife of said Papin (if he had a wife)? If yes, state her name, and whether she is dead or alive, and if dead, when did she die?

In answer to interrogatory No. 5, he says:

I was acquainted with his wife; she was known by the name of Maria Louise; she died at Potosi, in this State.

6th. If you state she is dead, state whether she left any children, and what are their names?

In answer to interrogatory No. 6, he says:

She left three children, two boys and a girl. The eldest was named Etinne. The names of the others I do not recollect.

7th. If you say said Papin had a wife, and you knew her, state whether she was the reputed daughter of Antoine Roi, who once lived in Portage des Sioux, whether said Roi did or did not raise her as his own daughter, and whether she did not call him father, and whether she was not so reputed among her neighbors and friends?

In answer to interrogatory No. 7, he says:

The wife of Etienne Papin was not reputed the daughter of Antoine Roi. Antoine Roi raised her. I cannot say whether she called him father. I do not think that she was generally reputed as his daughter.

8th. Do you know any other matter, or thing, that would be of any advantage to either of the above-named parties? If so, state it.

In answer to interrogatory No. 8, he says:

I cannot say that I know anything of advantage to either party, not knowing what is the matter in controversy.

Cross-interrogatories.

1st. What is your occupation, and at what places have you resided, and how long at each place?

In answer to cross-interrogatory No. 1, he says:

I am seventy-one years old; I have worked as a wheelwright, and farming. My principal occupation now is keeping a horse-mill. I

was born at Kaskaskia; and at three years old I went to St. Louis, where I stayed, generally, *untill* 1813, when I came here.

2. If you say that you ever knew the wife of Etienne Papin, state what was her name before she was married, at what time and place she was married, and when you saw her first, and when last, and where?

In answer to cross-interrogatory No. 2, he says:

The wife of Etienne Papin was named, before her marriage, Marie Louise Livernois. She was married at this place some short time before I came here. I first saw her at this place, before I moved here, and before she was married, as I came here frequently. She went to Potosi soon after being married, and before I moved here, so that I did not see her after she was married.

3. If you say that said Papin's wife left any children at her death, what became of them, and how long is it since you heard of any of them; where did they live? If dead, when did they die, and where?

In answer to cross-interrogatory No. 3, he says:

About four or five years ago, I heard that the eldest was at Kansas. The two others were small when their father died, and I do not know what became of them. I do not know whether they are alive or dead, neither of them.

4. Did not all of said Papin's wives' children, if any, die before their mother?

In answer to cross-interrogatory No. 4, he says:

These three children were alive after the death of their mother. It was after the death of their mother that they came to Saint Louis with their father.

5. Do you know anything further, of benefit to the plaintiff?

In answer to cross-interrogatory No. 5, he says, "I do not."

his
STEPHEN ⋈ DELILLE.
mark.

State of Missouri, County of Saint Charles, *ss.*

I, Henry Le Sieur, commissioner of the United States to take the above deposition, by the annexed commission for that purpose appointed, do hereby certify, that the foregoing deposition was by me taken, at the time and place aforesaid, and that said witness was by me sworn as aforesaid, and subscribed his name to said deposition in my presence. I further certify, that each interrogatory accompanying said commission, and also each cross-interrogatory, was propounded to said witness, and the answer thereto committed to writing before the following interrogatory, or cross-interrogatory, was propounded; and that all of said answers were committed to writing by me; and that I am not of counsel to either of the parties to said suit.

Witness my hand and seal, at my office, in Portage des Sioux, in

Saint Charles County, in the State of Missouri, the 31st day of January, 1857.

HENRY LE SIEUR, [SEAL.]
Commissioner.

Defendant next gave in evidence a plat of Ballance's addition to Peoria, which is as follows:

(For plat, see original, page 223.)

I, Charles Ballance, proprietor of the within addition to the town or city of Peoria, do hereby certify and acknowledge, that the within a correct plat thereof, surveyed, with my consent and under my directions, by George C. McFadden, county surveyor of Peoria county, in the State of Illinois, and that the said streets and alleys are hereby vested in the board of aldermen of said city, for the use of the public; provided, however, that I reserve to myself the right to inclose, or keep inclosed, until the public interest shall require them to be opened, of which interest I am to be the judge, all said streets, except Adams, Water, Hudson, and Chestnut, and all the alleys, except those below Adams street and above Chestnut street. Provided further, that I reserve to myself, my heirs, and assigns, forever, the exclusive right of establishing bridges, ferriages, and fishing, on said land, this survey notwithstanding.

In witness whereof, I have hereunto set my hand and seal, this 10 April, 1846.

C. BALLANCE. [SEAL.]

State of Illinois, County of Peoria, *sct.*

Personally appeared before me, Jonathan K. Cooper, a justice of the peace of said county, Charles Ballance, whose name is subscribed to the above acknowledgment as having executed the same, and who is personally known to me to be the same, and acknowledged the execution thereof to be his free act and deed for the uses and purposes therein expressed.

Dated this 10 day of April, 1846.

JONATHAN K. COOPER,
J. P.

I, George C. McFadden, county surveyor of the county of Peoria and State of Illinois, do hereby certify that the within plat is a true survey of Ballance's addition to the town of Peoria, as surveyed and laid off by me, on the southwest quarter of section 9, T. 8 N., R. 8 E., of the fourth principal meridian, at the instance of said Ballance, the proprietor thereof, on the 10th day of February, 1846. All the streets, alleys, and blocks were by me accurately measured, and are of the dimensions specified on said plat.

At the intersection of Walnut and Adams street, it being the easterly corner of block No. 40, I planted a stone, from which to make future surveys. At all the other corners of blocks, I caused stakes to be driven down. Although the blocks are divided into lots of sixty feet each on the plat, no corresponding stakes were driven, it being deemed by the proprietor unnecessary.

Given under my hand, at Peoria, this 10th day of February, 1846.

G. C. McFADDEN,
C. S. P. C.

Variation allowed in making the above survey, 7° 10′.

State of Illinois, County of Peoria.

Recorder's Office.

I, Charles Kettelle, recorder in and for said county, do hereby certify the within plat is duly recorded in said office, in book Q., pages 305 and 306, the 24th day of April A.D. 1846.

CHARLES KETTELLE,
R. P. Co.

Here the defendant rested.

Plaintiff then read in evidence the depositions of—
Bridget Beckett, taken by plaintiff.
Stephen Dilisle, taken 19 December, 1855.
Isadore Lecompte, taken 25 September, 1855.
Nicholas Boisnunee.
Joseph Chartrand.
Francois Lecloire.
Stephen Dilisle, taken 15 August, 1857.
Charles Kettelle.
Samuel Dimon.
Which said several depositions are as follows:

Deposition of Bridget Bequet.

Deposition of a witness, produced, sworn, and examined before me, Samuel A. Bennett, the commissioner named in a commission issued from the United States Circuit Court for the Northern District of Illinois, and to me directed, dated August 3d, one thousand eight hundred and fifty-seven, in a suit pending in said court, wherein William P. Bryant is plaintiff and Richard Gregg is defendant, upon the interrogatories and cross-interrogatories annexed to said commission, at the instance of the plaintiff and defendant.

Said deposition taken at the residence of the witness, in the city of St. Louis, State of Missouri, on the 17th day of August, A.D. 1857.

Bridget Bequet, of lawful age, being produced, and by me first

duly cautioned and solemnly sworn, deposes and says as follows, in answer to the interrogatories and cross-interrogatories annexed to the commission:

1st. What is your age and place of residence?

In answer to the first interrogatory, she says: My age is 55 years on the 11th of June last, and I reside in St. Louis.

2. Were you ever acquainted with Marie Louise, who was the wife of Etienne Papin, and her husband? If so, what was her name previous to her marriage with said Etienne Papin?

In answer to the second interrogatory: I knew the wife of Etienne Papin, but did not know her first name. She was a Roy, but I do not know what Roy. I knew her when she was a young girl, and I was a child; she was much older than I. I knew her husband, Etienne Papin; he was my cousin, and my mother's cousin. Her name was Roy before she married Etienne Papin. I do not know her given name, nor do I know the name of her father and mother.

3. Have you any personal knowledge whether she was the daughter er step-daughter of Antoine Roi?

In answer to the third interrogatory, she says: I have no personal knowledge that she was the daughter or step-daughter of Antoine Roy.

4. When was Antoine Roi married to her mother? and when and how long since (if dead) did she die?

In answer to the fourth interrogatory, she says: I do not know when Antoine Roi was married to Mrs. Etienne Papin's mother. I do not know that he was married; I never knew that he had a wife. I do not know where nor how long since Mrs. Etienne Papin died, but I am very sure she is dead. I was living in St. Louis at the time. Both she and her husband are dead.

5. State whether or not said Marie Louise was not born before her mother's marriage to Antoine Roi, and how old she was at the time of such marriage.

In answer to the fifth interrogatory, she says: I cannot state whether the wife of Etienne Papin was born before her mother's marriage to Antoine Roy. I never knew Antoine Roy's wife.

6. To Bridget Bequet alone.

Has your deposition been taken before in this suit, by E. A. Dibriel, Esq.? If so, when, and what did you say, when inquired of about Marie Louise being the daughter of Antoine Roi?

In answer to the sixth interrogatory, she says: My deposition has been taken before in this suit, by E. A. Dubreil, Esq. I don't recollect the date. I do not know whether Marie Louise, the wife of Etienne Papin, was the daughter of Antoine Roi, and I never said so.

7. Did you not state distinctly, that you did not know whether she was the daughter of Antoine Roi; that you was too young at the time of the marriage of Antoine and his wife to remember anything

about it; that his wife had a child or children before he married her, and that Etienne Papin's wife may have been one of these children?

In answer to the seventh interrogatory, she says:

I stated distinctly that I did not know whether she was the daughter of Antoine Roy or not; I stated that I was too young at the time of the marriage of Antoine Roy and his wife to remember anything about it. I did not state that Antoine Roy's wife had a child or children before he married her, nor that Etienne Papin's wife may have been one of those children; I do not know who Etienne Papin's wife was; but she was a Roy; I knew a little Roy, but do not that she was his daughter.

To both Witnesses.

8. Do you know anything further of benefit to either party?

In answer to the eighth interrogatory, she says:

I know nothing else than what I have stated.

Cross-interrogatories, to be propounded to Bridget Bequet and Sarah Bousche, of the city of St. Louis.

If, in answer to said 3d interrogatory you say anything intimating a want of personal knowledge on your part of Papin's wife being the daughter of Antoine Roi, I ask you to state all your means of being acquainted with said Roi and Papin and their families; whether you are a relation of theirs and are acquainted with many others of their relations?

In answer to the first cross-interrogatory, she says: I know that Mrs. Etienne Papin was the daughter of Roy, but do not know that she was the daughter of Antoine Roy; she was called Roy, and went by that name. I lived in the same village with them, Portage des Sioux; my only relation to any of the parties was to Mr. Etienne Papin, who was a little cousin of mine and of my mother. His first wife was a niece of my grandmother; Miss Roy was his second wife. It was at Portage de Sioux that I knew her, Miss Roi, when she was a young girl and I was a child; I knew her before she was married and after also. I knew several Roys, but don't know whether they were related. I knew two Papins, Etienne and Joseph, who were brothers.

2d. Did you ever, until this summer, hear any one express a doubt of the fact that said Etienne Papin married the daughter of Antoine Roy? and that Tereze Latour was a child of this marriage?

In answer to second cross-interrogatory, she says: I never knew or heard anything about it. I never knew whether she was the daughter of Antoine Roi; but only that she was a Roy. Etienne Papin had a daughter named Therese by his marriage with Miss Roy; but she was not Therese Latour. Etienne Papin had a daughter named Poupon by his first marriage, who married a Latour.

3d. Was not said Marie Louise (the wife of said Papin) among all her friends and relations, so far as you know, as far back as you can recollect, reputed and believed to be the daughter of said Antoine Roi, whose sobriquet was Little Roi?

In answer to the third cross-interrogatory, she says: I do not know whether she was represented and believed to be the daughter of Antoine Roy, whose sobriquet was Little Roy, or not; I never heard anything about it; I always heard her called a Little Roy; but do not know whether she was the daughter of Antoine Roy.

To Mr. Bequet alone.

1st. If you made any such statement as is indicated by the seventh interrogatory, was it not after Mr. Dubriel had finished the taking of your deposition?

In answer to the first cross-interrogatory directed to her alone:

I stated both before and after Mr. Dubriel had finished taking my deposition what I have stated in my answer to the seventh direct interrogatory.

2d. Although you cannot positively know anything that took place before you were old enough to remember, do you not know the fact that said Papin's wife, Marie Louise, was the daughter of said Antoine Roi, as well as you can know any fact of the kind that took place at so early a period?

In answer to the second cross-interrogatory directed to her alone, she says:

I do not know at all what Etienne Papin's second wife's first name was, nor that she was the daughter of Antoine Roy; the only thing I do know is, that she was called a Roy.

3d. Do you know it as well as you can know anything by family tradition? Any by being handed down from father to son, or communicated from one member of a family to another?

In answer to the third cross-interrogatory directed to her alone, she says:

I do not know from family tradition whether she was the daughter of Antoine Roy or not, nor what her first name was. I don't recollect that I ever heard her name or whose daughter she was; I may have heard it, but I was too young to remember.

her
BRIDGET ⋈ BEQUET.
mark

Witness,
S. A. BENNETT,
Commissioner.
LOUIS A. LA BEAUSURE,
Interpreter.

Deposition of Etienne or Stephen Delille.

United States of America, Northern District of Illinois, *ss.*

WILLIAM P. BRYANT
v.
RICHARD GREGG.

The deposition of Etienne Delille, taken at the office of Henry Le Sieur, in the village of Portage des Sioux, in the county of St. Charles, State of Missouri, at two o'clock on the 19th day of December, 1855, pursuant to the annexed commission and interrogatories, said Etienne Delille being produced before me at the time and place aforesaid, and having been by me sworn true answers to make, and the whole truth and nothing but the truth to speak, in answer to all the annexed interrogatories, answered as follows, to wit:

1st. State how long you have resided, if ever, in the village of Portage des Sioux, and its immediate vicinity?

In answer to interrogatory No. 1, he says:

I lived here since 1814.

2d. Did you ever know two brothers by the name of Simon Roi and Antoine Roi to live at Portage des Sioux? If yes, about what time did you know them there? and where did they come from when they came there? and where did they go to when they left there?

In answer to interrogatory No. 2, he says:

Yes; they were residing here when I came here; my impression was that they were Canadians, but came Peoria here; I heard that they went to Kahokia from here.

3d. Had said Antoine a wife when he came there, and what became of her? If he had said wife, when he came there, had she any child or children? and if yes, what were their names, if you know?

In answer to interrogatory No. 3, he says: Antoine Roi had a wife when I first knew him. She died here. She had two children by him; two boys—one was named Ambroise, the other I do not know his name. He was nicknamed Cat's Eye, because of his having a defect in one eye.

4th. Did you know a woman by the name of Marie Louise Mittet (pronounced Miyett), who resided at Portage des Sioux? If yes, state whether she was ever married to said Antoine Roi after the death of his first wife, or did she live with him as his wife?

In answer to interrogatory No. 4, he says: I knew Marie Louise Millet who resided here. I heard it said at the time that she was married to Antoine Roi after the death of his first wife. She lived with him as his wife, and they went away together.

5th. If you say said Miyett was married to said Antoine Roi, or lived with him as a wife, state whether or not she had a daughter

3d. Was not said Marie Louise (the wife of said Papin) among all her friends and relations, so far as you know, as far back as you can recollect, reputed and believed to be the daughter of said Antoine Roi, whose sobriquet was Little Roi?

In answer to the third cross-interrogatory, she says: I do not know whether she was represented and believed to be the daughter of Antoine Roy, whose sobriquet was Little Roy, or not; I never heard anything about it; I always heard her called a Little Roy; but do not know whether she was the daughter of Antoine Roy.

To Mr. Bequet alone.

1st. If you made any such statement as is indicated by the seventh interrogatory, was it not after Mr. Dubriel had finished the taking of your deposition?

In answer to the first cross-interrogatory directed to her alone:

I stated both before and after Mr. Dubriel had finished taking my deposition what I have stated in my answer to the seventh direct interrogatory.

2d. Although you cannot positively know anything that took place before you were old enough to remember, do you not know the fact that said Papin's wife, Marie Louise, was the daughter of said Antoine Roi, as well as you can know any fact of the kind that took place at so early a period?

In answer to the second cross-interrogatory directed to her alone, she says:

I do not know at all what Etienne Papin's second wife's first name was, nor that she was the daughter of Antoine Roy; the only thing I do know is, that she was called a Roy.

3d. Do you know it as well as you can know anything by family tradition? Any by being handed down from father to son, or communicated from one member of a family to another?

In answer to the third cross-interrogatory directed to her alone, she says:

I do not know from family tradition whether she was the daughter of Antoine Roy or not, nor what her first name was. I don't recollect that I ever heard her name or whose daughter she was; I may have heard it, but I was too young to remember.

her
BRIDGET ⋈ BEQUET.
mark

Witness,
S. A. BENNETT,
Commissioner.
LOUIS A. LA BEAUSURE,
Interpreter.

Deposition of Etienne or Stephen Delille.

United States of America, Northern District of Illinois, *ss.*

WILLIAM P. BRYANT
v.
RICHARD GREGG.

The deposition of Etienne Delille, taken at the office of Henry Le Sieur, in the village of Portage des Sioux, in the county of St. Charles, State of Missouri, at two o'clock on the 19th day of December, 1855, pursuant to the annexed commission and interrogatories, said Etienne Delille being produced before me at the time and place aforesaid, and having been by me sworn true answers to make, and the whole truth and nothing but the truth to speak, in answer to all the annexed interrogatories, answered as follows, to wit:

1st. State how long you have resided, if ever, in the village of Portage des Sioux, and its immediate vicinity?

In answer to interrogatory No. 1, he says:

I lived here since 1814.

2d. Did you ever know two brothers by the name of Simon Roi and Antoine Roi to live at Portage des Sioux? If yes, about what time did you know them there? and where did they come from when they came there? and where did they go to when they left there?

In answer to interrogatory No. 2, he says:

Yes; they were residing here when I came here; my impression was that they were Canadians, but came Peoria here; I heard that they went to Kahokia from here.

3d. Had said Antoine a wife when he came there, and what became of her? If he had said wife, when he came there, had she any child or children? and if yes, what were their names, if you know?

In answer to interrogatory No. 3, he says: Antoine Roi had a wife when I first knew him. She died here. She had two children by him; two boys—one was named Ambroise, the other I do not know his name. He was nicknamed Cat's Eye, because of his having a defect in one eye.

4th. Did you know a woman by the name of Marie Louise Mittet (pronounced Miyett), who resided at Portage des Sioux? If yes, state whether she was ever married to said Antoine Roi after the death of his first wife, or did she live with him as his wife?

In answer to interrogatory No. 4, he says: I knew Marie Louise Millet who resided here. I heard it said at the time that she was married to Antoine Roi after the death of his first wife. She lived with him as his wife, and they went away together.

5th. If you say said Miyett was married to said Antoine Roi, or lived with him as a wife, state whether or not she had a daughter

called Mary before she lived with him, and before she pretended to be his wife.

In answer to interrogatory No. 5, he says: I heard at the time that she had a child before she got married with Antoine Roy. Shortly after, as soon as she got well, that she got married with Roy. I do not know exactly how long, but I think not over three months.

6. Do you know where said Mary now lives, and to whom she is married? If yes, state.

In answer to interrogatory No. 6, he says: I heard that she married Touissaint Gendron, but do not know it of my own knowledge.

7th. State if you know who was the father of said child Mary, the daughter of said Miss Miyett.

In answer to interrogatory No. 7, he says: I do not know.

8th. If you do not know positively who was the father of said child, state (if you know), who was its reputed father.

In answer to interrogatory No. 8, he says: I do not know.

9th. Do you or not know that one Louis Roi and not Antoine Roi was her father it.

In answer to interrogatory No. 9, he says: I do not know.

10. If you say you do not know that said Louis Roi was the father of said Mary, do you or not know that said Louis was reputed to be her father?

In answer to interrogatory No. 10, he says: there were persons who said so at the time, but I cannot say that it was general.

11th. Did you or not ever hear either said Antoine, Louis, or said Miss Miyett allege, or pretend, before said Miyett went to live with said Antoine, that he, said Antoine, was the father of said child, or deny that said Louis was her father?

In answer to interrogatory No. 11, he says: I never did. I did not frequently see them except at church.

12th. Do you or do you not know that said Louis procured said Antoine after said child was born to marry the mother, and adopt the child, to relieve him, the said Louis and said Miss Miyette, from disgrace.

In answer to interrogatory No. 12, he says: I do not know.

13th. If you say you do not know that fact, was it or not currently reported to be the fact throughout the neighborhood?

In answer to interrogatory No. 13, he says: I heard it at the time, but cannot say that it was general?

14th. Did you or not ever hear either of said parties deny said charge?

In answer to interrogatory No. 14, he says: I did not.

15th. What was the character (if you know) of said Miss Myett for chastity and virtue?

In answer to interrogatory No. 15, he says: I never knew anything wrong in her character except having that child, either before or after.

16. Did or did not said Miss Miyett live with said Louis Roi and not with said Antoine Roi, at the time of the birth of said child, and for more than nine months previously thereto?

In answer to interrogatory No. 16, he says: She lived with her sister and her brother-in-law, Louis Roy, several years before the birth of the child, and was living with them at the time.

17. Did or did not Louis Roi, Antoine Roy, and Miss Miyett know that it was currently reported in said neighborhood that said Louis was the father of said child, and that said Louis procured said Antoine to marry said Miss Miyette and adopt said child?

In answer to question No. 17, he says: I do not know.

18th. If you say you do not know that they knew said facts, were they or not so currently reported and so much talked about that they could not well have avoided knowing that such reports were current?

In answer to question No. 18, he says: As far as I know, they may have been ignorant of it.

19th. Was you acquainted with said parties, and the people in said neighborhood, sufficiently intimate at that time to enable you to speak knowingly on the subject?

In answer to question No. 19, he says: I cannot tell.

20th. Do you know any other matter or thing that would be of any advantage to either of the parties aforesaid? If so, state it.

In answer to question No. 20, he says: I do not know anything that may be of benefit to either party.

Cross-interrogatories, to be propounded to Etienne Delille, Locia Delille, Aspasia Johnson, Mary Le Faine, in each of the above causes.

1. Do you not know that the mother of Mary Gendron and Antoine Roy lived and cohabited together as husband and wife at Portage de Sioux, and that said Mary lived with them there and was reported to be their daughter, and acknowledged and called so by them? Have you not often heard them call her their daughter, and her call them father and mother?

In answer to 1st cross-interrogatory, propounded by N. H. Purple, plaintiff's attorney, and hereto attached, he answered: When they left here, the child was very young and not able to speak. I was not enough with them to know that they called that it their child.

2. Do you not know that the mother of Mary and said Antoine Roi lived and cohabited together as husband and wife, in St. Clair County, Illinois, and that said Mary Gendron lived with them there, and was reputed, known, and acknowledged to be their daughter, both by them, and by their neighbors and acquaintances generally?

In answer to 2d cross-interrogatory he says: I did not know them after they left here.

3. What is your age and occupation?

In answer to 3d cross-interrogatory he says: I am seventy years old the first of next month; I am a miller, or do any other work to make a living.

Further deponent saith not.

his
ETIENNE ⋈ DELILLE.
mark.

Depositions of Isadore Le Compte, N. Boismann, Joseph Chartrand.

Interrogatories, to be propounded to Isadore Le Compte, Nicholas Boismann, Baptiste Beckett, and Joseph Chartrand, severally.

1. What is your name, age, place of residence, and occupation?

2. Did you know Simon and Antoine Roi, or either of them, in their lifetime? If so, state whether they are dead or alive, and if dead, when and where did each of them die?

3. Was Antoine Roi ever married, to your knowledge? If so, to whom, and how many times?

4. If you say he was married twice, how many children did he have by his first wife, to your knowledge, and when and where did they or any of them die, or are any of them still living, and what are their names?

5. State whether those who died, died before or after their father, Antoine Roi, and how old each one was at its death, and whether they left any issue or children surviving them.

6. How many children had said Antoine Roi by his second wife, and what were their names?

7. Are they dead or alive? if dead, when did each one die, and at what age, and state whether they left any child or children surviving them?

8. Do you know Mary Gendron, wife of Touissaint Gendron? If so, where has she resided since you have known her, and whose daughter was she reputed to be at the time you first knew her, and how old was she at that time?

9. State whether Antoine Roi and the mother of Mary Gendron lived and cohabited together as husband and wife, and were or were not reputed to be married; and whether they acknowledged the said Mary to be their daughter, and whether she was not reputed to be such among all her friends and acquaintances?

10. Was Simon Roi ever married, and if so, when and to whom?

11. If you say that he was married twice, state whether he had any children by his first wife, and what were their names?

12. If you state that he had two, Simon and Marguritte, state whether they or either of them are dead or alive, and if dead, how long ago, and at what age each died, and whether they died before or after their father, Simon, and how long.

13. Was Simon, the son, ever married, or did he at his death leave any children or issue surviving him?

14. Was Marguritte ever married, and if so, to whom?

15. If you say she was married to Paul De Longchamps, state whether she ever had any children, and whether they are dead or alive. If dead, when did they die, and at what age did they die? before or after their mother, Marguritte, and about how long?

16. State whether the said Marguritte died before or after her father, Simon's death; if before, how long?

17. Did Simon Roi have any children by his second wife, to your knowledge; if so, what were their names? are they dead or alive; if dead, about how long ago did they each die, and at what ages?

18. Did the said last-named children of Simon Roi die before or after their father? if before, about how long? were any of them ever married, or did any of them leave any issue or children surviving them?

19. Were you ever acquainted with one Belshazur Latour, or his wife, Jasette? whose daughter was she? is he dead or alive? if dead, when did she die, and did she die before or after her father, and did she leave any child or children or issue surviving her at the time of her death?

20. State whether said Latour was married a second time, and what was the name of his second wife?

21. State whether there is at this time living any surviving relative or descendant of the said Antoine, or Simon Roi, except the said Mary Gendron; and if so, how long it has been since there has been, to your knowledge, any such descendant or relative of the said Antoine or Simon living.

22. Had said Antoine or Simon Roi, at the time of the death of Simon, any father or mother, brother or sister, child or children, or descendant or descendants of either living, except the said Mary Gendron, and those hereinbefore mentioned by you? If so, state who they were, what were their names, and what has become of them.

23. Do you know any other matter or thing of benefit to the parties to this suit, or either of them? if so, state the same fully.

To Nicholas Boismanne, alone.

1. Has your deposition been taken in this case before, and if so, before whom, and at whose instance or request?

2. Did you state in that deposition that Mary Gendron, when you first knew her, was not reputed to be the daughter of Antoine Roi, or at any time after?

3. State whether said Mary was not reputed, when you first knew her, to be the daughter of Antoine Roi; whether said Antoine and her mother did not live and cohabit together as husband and wife,

and were they not reputed to be married; and did they or not acknowledge said Mary to be their daughter?

4. Have you not told Robert Forsyth and others that when said Mary came to live at Illinoistown, and when you first knew her, she was reputed to be the daughter of Antoine Roi, and recognized and known as such? and if you have made any statement in your deposition taken before said Walsh, different from this, is the same true or false, or has it been put down different from what you have stated it?

To the 21st interrogatory propounded to Isadore Le Compte, Nicholas Boismanne, Baptiste Beckett, and Joseph Chartrand, defendant objects, because it is an attempt to make the witness depose to question of law instead of fact. Nevertheless defendant prays that the following interrogatories may be propounded to said witnesses.

1st. Do you not know that Antoine Roi died when Mary Gendron was an infant?

2d. Do you not know that Simon Roi and Miss Miett, the mother of Mary Gendron, lived together as man and wife long before they were married, and raised Mary Gendron, and both before and after their marriage recognized Mary as their daughter?

3d. Do you not know that, after the death of said Mary's mother, said Simon took up his *loging* with said Mary, and lived with her until his death, although he then had a daughter alive that was married and a housekeeper?

4th. Do you not know that said Miss Miett was so common a woman that no one could tell with tolerable certainty who was the father of her children?

4. Had said Miss Miett not the reputation of being a lewd woman?

5th. Were you not present in the Catholic church in Cohokia when said Simon Roi and Miss Miett made public confession that they had long been living in a state of adultery and fornication?

6th. If you were not present at said confession, do you not know or believe that it was made? If you say you do not know the fact, but believe it, state the facts on which you found such belief.

7th. Was it not stated at the time, by the neighbors generally, that said confession was so made by them? and did you ever hear either of them, or any one else, deny the truth of said statement?

8th. I wish each of said witnesses to state, as well as he possibly can, the number of years since the death of each of the children of said Antoine and Simon Roi; particularly how many years since the death of Margaret Delongchamps?

9th. Of said Chartrand I would ask, although said Delongchamps may not have any children alive, has he not other heirs? Has he

not a nephew named Louis Chartrand, and a neice named Margaret Martin?

10th. Of said Isadore Lecompte I would ask, are you acquainted with Louis Latour? and have you not sworn, on a former occasion, that he was the grandson of Antoine Roi, and is that not the fact?

11th. Of Nicholas Boismanne I would ask, do you not know that said Ambrose Roi was married to a Miss Labbadie, and had a child by her?

12th. How long since you saw said Ambrose, according to your best recollection?

13th. If you should state, in answer to any of the foregoing interrogatories, that Mary Gendron was the reputed daughter of Antoine Roi, was she not also the reputed daughter of Simon Roi?

14th. Was it not also reputed that she was a bastard, and born before either said Antoine or Simon had any knowledge of her mother?

15th. Is it not a fact that the first time you ever saw Mary Gendron was after the death of said Antoine, commonly called Little Roi? Is not this the history of that part of the case. After said Antoine lost his first wife he married said Miette at Portage des Sioux, in Missouri, said Mary Gendron having been previously born while said Antoine had another wife? Afterwards Antoine died, and Simon brought her and said Mary Gendron into your neighborhood, where they raised said Mary? If this is not the truth of the matter, state what is the fact.

16th. Was not the fact of the illegitimacy of said Mary so well known throughout the community that no one ever disputed it?

17th. Did you ever hear either of said Rois, or said Miss Miyette, or any one else, before the pending of these suits, pretend that said Mary was the legitimate daughter of either Simon or Antoine Roi?

Isadore Lecompte.

Deposition of Isadore Lecompte, taken by and before me, Nathaniel Niles, county judge of St. Clair county, Illinois, under and by authority of the annexed commission, at the residence of Manuetk Godin, in the town of Cohokia, in said county, in which town said witness resides, to be read in the cases above and in said commission mentioned.

N. NILES.

Isadore Lecompte, being duly sworn, deposes and says, in answer to the interrogatory of both parties, attached hereto, and propounded by me to him as follows. (Said witness being a Frenchman, and not speaking English well, Robert Forsyth is sworn and acts and interpreter.)

To 1st interrogatory. What is your name, age, place of residence, and occupation?

Answer. My name is Isadore Lecompte; my place of residence is Cahokia; my occupation is that of a small farmer; I am 71 or 72 years of age.

To 2d interrogatory witness answers: I know Simon Roi; I was once his neighbor; I never knew Antoine Roi. I recollect very well when Simon Roi told me that his brother Antoine had died somewhere up in Illinois; and that he, Simon, was going up to get his sister-in-law and her children, and bring them down here to support them. He did bring them down, and married the widow.

To the 3d interrogatory the witness answers: All I know about this is from hearsay. Antoine Roi's widow told me that his first wife was a Livernois, and that her name before she married was Loise Myette.

To the 4th interrogatory:

Answer. I think that the first child of Antoine Roi's first wife by him was Jassette, who married Belthasar Latour. Another one was named Ambroise. Another Antoine, or Charles, Antoine Charles. A fourth was Marie, who married Touissaint Gendron. There was another son named Pierre, but I do not know whether he was by the same mother.

To the 5th interrogatory:

Witness answers. I think they are all dead, and that they all died after their father, except Marie Gendron, who is still living.

To the 6th interrogatory:

Answer. I heard that Jasette died about the time the family was brought down here; I do not know at what time. She was the wife of Belthasar Latour. Do not know whether she died before or after her father; nor whether she left any children or not. Ambroise married a Miss Laverdeur, who died about 18 or 20 years ago, and before her husband. They had no children. Ambroise died up the Missouri country, and never married a second time. Charles is dead; he never married. All the children of Antoine Roi are dead, except Mary Gendron.

To the 6th interrogatory:

Answer. On reflection, I remember now that Mary and Pierre were children of Antoine Roi, by his second marriage.

To the 7th interrogatory:

Answer. Mary is alive now, and the wife of Touissaint Gendron, and Pierre is dead. He was four or five years of age when he died. I know of no other children of Antoine Roi.

To the 8th interrogatory:

Ans. I knew Mary Gendron. She has always lived in this county, and since her marriage at Cantine. She was about 8 years old when I first saw her, at the time Simon Roi brought her and her mother from up the river. She always passed as the daughter of Antoine

Roi and Miss Myette, his second wife. She lived here as my neighbor and at Illinoistown till she married, when she removed to Cantine, where she now lives.

To the 9th interrogatory:

Answer. Antoine Roi and Miss Myette were reputed to have been married. I did not see them, and only know them by reputation as man and wife. Mary Gendron was always acknowledged as their daughter by the family, and so recognized by the neighbors; and old Simon Roi always called her his niece.

To the 10th interrogatory:

Answer. Simon Roi was married twice; the first wife was a Frenier, and the second was a Miss Myette, the widow of Antoine Roi.

To the 11th interrogatory:

Answer. One of the children of Simon Roi, by his first wife, was Margaret, and the other was Simon. These are all I know.

To the 12th interrogatory:

Answer. Both of these children, Margarette and Simon, died before their father. They died some 16th or 18 years ago, or thereabouts—Margaret first, and some four or five years before their father, Simon Roi. I am not positive as to the time. There may be a difference of 4 or 5 years, more or less.

To the 13th interrogatory:

Answer. Simon Roi, the younger, was never married. He left no issue.

To the 14th interrogatory:

Answer. Margarette, daughter of Simon Roi, was married to one Paul Hypolite de Longchamps.

To the 15th interrogatory:

Answer. I heard that they had children, but I do not know. Never knew them. I heard that they all died before their mother. I did not hear how long before.

To 16th interrogatory:

Answer. Margaret, wife of Paul de Longchamps, and daughter of Simon Roi, died before her father. I do not know how long before.

To 17th interrogatory:

Answer. Simon Roi had children by his second wife, but I do not recollect their names.

To 18th interrogatory:

Answer. All the children of Simon Roi, by his second wife, died young, and before their father. I do not know their ages. None of them were married.

To 19th interrogatory:

Answer. I know Belthasar Latour, but not his wife Jasette—his first wife; I knew her only from information of the family. Her brother, Ambroise Roi, lived with me two years. He told me his sister Jasette had been the first wife of Latour, and so I heard from the rest of the family living near me. Also, that she, Jasette, was a child

of Antoine Roi, by his first marriage. I never heard of any children of Belthasar Latour and said Jasette.

To 20th interrogatory:

Answer. Belthasar Latour's second wife was a Papin. I do not recollect her given name. I knew Louis Latour, son of Balthasar Latour; from his age, he must have been born of the second marriage. He would now be 25 or 26 years of age, if living. Had he been a child of the first marriage, he would now be 35 or 38 years of age. He lived at Illinoistown when I last saw him, about 13 or 14 years ago.

To 21st interrogatory:

I do not know of any relatives, or descendants of any relatives, of Antoine Roi or of Simon Roi, except Mary Gendron. I do not believe there is any other. I have known of none for 16 or 18 years.

To 22d interrogatory:

Answer. I know of no relatives such as those mentioned in this question, except Mary Gendron.

To 23d interrogatory:

Answer. I am very confident that if Louis Latour had been a son of Belthasar Latour, by his first marriage with Jasette Roi, from my intimacy with the family I should have heard of it. The family of Simon Roi lived opposite to me in Cahokia, and were in the habit of visiting in my house almost every day, and several times a day, for two or three years after he married his brother's widow.

I never heard of any children of Balthasar Latour and Jasette Roi, and do not believe they had any.

Cross-examined.

To cross-interrogatory 1st:

Do you not know that Antoine Roi died when Mary Gendron was an infant?

The witness answers, Yes.

To cross-interrogatory 2d:

Answer. Yes. They lived together before they were married in the Catholic church, and Simon Roi recognized Mary as his niece.

To cross-interrogatory 3d:

Answer. Simon Roi went and lived with his married niece, Mary Gendron, till he died in her house. His daughter Margaret was dead when he went to live with his niece.

To cross-interrogatory 4th:

Answer. No; she was not a common woman.

To cross-interrogatory 4th (2d):

Answer. No.

To cross-interrogatory 5th:

Answer. I was not present, but I heard it was so. My wife was present, and told me of it.

To cross-interrogatory 6th:

Answer. I believe what my wife told me.

To cross-interrogatory 7th:

Answer. Yes; it was generally talked of, and by everybody. The priest would not marry them without a public confession.

To cross-interrogatory 8th:

Answer. I think Margaret Des Longchamps has been dead about 18 years, more or less. I keep no books. I know that all the children of Antoine and Simon Roi, his brother, are dead. How long ago I do not know.

Cross-interrogatory 10th, addressed to witness Lecompte, he answers. No, I have never sworn that Louis Latour was a grandson of Antoine Roi. I knew him as I have stated above. I do not believe he was such a grandson. He was a great deal too young to be a son of his father's first wife. He might have been, but I do not believe he was.

his
ISADORE ⋈ LECOMPTE.
mark.

I, Nathaniel Niles, county judge of the St. Clair Circuit Court, do hereby certify the foregoing deposition of Isadore Lecompte, was taken by and before me, at the residence of Madame Manette Godin, in the town of Cahokia, in said county of St. Clair; said town being the place of residence of said Lecompte, on 28th day of September, A.D. 1855, under and by authority of the annexed commission to me directed, in two certain causes, pending in the Circuit Court of the United States for the Northern District of Illinois, wherein William P. Bryant is plaintiff, and *and* Richard Gregg is defendant, and Edward P. Tesson is plaintiff, and said Gregg is defendant; that at the said time and place, the said deposition was sworn to and subscribed before me, by the said witness, Isadore Lecompte; the same having been reduced to writing by me, and the interrogatories and cross-interrogatories hereto attached first propounded in their order. As witness my hand on the day last aforesaid.

NATHL. NILES.

Deposition of Nicholas Boismanne.

Deposition of Nicholas Boismanne, taken by and before me, at the residence of said Boismanner, in St. Clair county, Illinois, to be read in evidence in two certain causes, pending in the Circuit Court of the United States for the Northern District of Illinois, wherein William P. Bryant is plaintiff, and Richard Gregg, defendant, and Edward P. Tesson is plaintiff, and said Gregg is defendant, under and by authority of the annexed commission, to me, Nathaniel Niles, county judge of said county, in the State of Illinois, directed by said court.

N. NILES.

Nicholas Boismanne, being duly sworn, deposes and says, in answer to the annexed interrogatories, to be propounded to him and other witnesses named therein, as follows:

Interrogatory 1. What is your name, age, place of residence, and occupation?

Answer. My name is Nicholas Boismanne; I am 66 years of age this next month. I live here in the American Bottom, in St. Clair county, Illinois, near Illinoistown; I am a farmer.

To 2d interrogatory:

Answer. I knew Simon Roi; have seen Antoine Roi once or twice. They are both dead. I suppose. I have so understood. Antoine died at Portage des Sioux, about the 1820 or 1822. Simon died at Cantine, in this county, near about the year 1830; perhaps one or two years before, perhaps one or two years after.

To interrogatory 3d:

Answer. I understood he, Antoine Roi, was married. I saw a woman that was reputed to be his wife. I do not know how many times he was married.

To interrogatory 4th:

Answer. I have seen children here that were said to be Antoine Roi's children. I did not know the name of his wife. One of the children was named Ambrose; the other boy I did not know. There were other younger children, but I did not know whether they were Antoine's or Simon's.

To interrogatory 5th:

Answer. One child of Antoine Roi died here; and one went up the Missouri. I do not know whether he is dead or not. They left no children surviving them. They must have died after their father; it was after Simon Roi brought the family of Antoine, his brother, from Portage des Sioux, to Cahokia.

To interrogatory 6:

Answer. I do not know.

To interrogatory 7:

Answer. I did not know that Antoine Roi had been married twice; the children that I have named, I did not know whether they were by a first or second marriage.

To interrogatory 8:

Answer. I know, and knew Mary Gendron. She was 6 or 7 years of age, when I first knew her, after Simon Roi brought her and her mother down from Portage des Sioux. She lived at Simon's house in Cahokia, and since her marriage at Cantine.

To interrogatory 9:

Answer. I do not know. I never knew them, when living together as man and wife.

To interrogatory 10.

Answer. Simon Roi had a wife when he first came to Cahokia;

after her death, he married the woman that was said to be his brother's widow. I did not know the name of his first wife.

To interrogatory 11:

Answer. I knew of two children by his, Simon Roi's, first wife. I do not know their names.

To interrogatory 12:

Answer. Both of these children died before their father, I think. They were a boy and a girl. The boy died before 1820, and before the father, Simon Roi, left Cahokia to live in Illinoistown. The girl must have died between 1826 and 1830, in Illinoistown, when her father was living there; perhaps she died at Cantine.

To interrogatory 13:

Answer. The boy died without issue, never having been married.

To interrogatory 14:

Answer. The girl was married to Paul De Longchamps.

To interrogatory 15.

Answer. I do not know whether they had any children.

To interrogatory 16.

Answer. Simon Roi's daughter, wife of Paul De Longchamps, died before her father; but I do not know how long before.

To interrogatory 17. Answer. I think Simon Roi had a little boy. I have seen him following his father, who called him "tu petite." I think this was a nickname. He was by his second wife, who was the reputed widow of Antoine Roi.

To interrogatory 18. Answer. This boy died at the age of about eight or ten years, and after the year 1830; and also after his father died. The boy left no children.

To interrogatory 19. Answer. I knew Belthasar Latour, when he came to Illinoistown. He then had a wife. I think her family name was Clairmont. She married again after the death of Latour. She is now dead. I never knew any other wife of Belthasar Latour. He is dead. He had a son named Louis. I heard of him last year.

To interrogatory 20. Answer. I do not know.

To interrogatory 21. Answer. I do not know.

To interrogatory 22. Answer. I do not know.

To interrogatory 23. Answer. I know of nothing more that will be of benefit to either party. I never knew of any other wife of B. Latour.

To the interrogatories to be propounded to the witness Nicholas Baisman "alone," he answers as follows:—

To the 1st:

Answer. Yes. My deposition was taken before T. M. Walsh, Esq. I do not know at whose instance.

To the 2d of said interrogatories:

The witness answers as follows. I never stated in that deposition, nor in any other, that Mary Gendron, when I first knew her, was not reputed to be the daughter of Antoine Roi. Of late, but not before, I have heard that she was not the daughter of Antoine Roi. I have heard too that Madame Gendron sent to Portage des Sioux, and got the marriage certificate of her father's marriage with her mother. I do not suppose that the people whom I have heard talk on the subject knew anything about it.

To 3d interrogatory:

Answer. All I know about this matter is, that when Simon Roi brought Mary Gendron down from Portage des Sioux she was recognized as the daughter of Antoine Roi, and sister of the two boys of Antoine Roi,—Ambrose and another, whose name I do not recall; and that she was always so called and reputed.

To 4th interrogatory:

Answer. Yes. I have told Robert Forsyth that Mary Gendron, when I first knew her at Illinoistown, was reputed to be the daughter of Antoine Roi; and I never told any person differently. Any other statement different from this is not *not* true; and I do not think I ever made any other or different statement from this now made.

Cross-examined.

To 1st cross-interrogatory:

Answer. Antoine Roi was dead when I first knew Mary Gendron. She must have been an infant when he died.

To 2d cross-interrogatory:

Answer. I do not know. I only knew them married. I never heard him call Mary his daughter. The neighbors spoke of her as old Roi's (Simon Roy's) daughter. They did not know.

To cross-interrogatory 3d:

Answer. I think at old Simon moved up to Cantine village, and lived there with Mary Gendron when his wife died. I do not know whether his daughter, Delongchamp's wife, was living or dead when he moved there.

To cross-interrogatory 4th:

Answer. I do not know and never heard anything of her till lately; did not know Miss Myette.

To cross-interrogatory 4th (2d):

Answer. I do not know; never heard it.

To cross-interrogatory 5th:

Answer. No. I was not there.

To cross-interrogatory 6th:

Answer. I have heard some people talk about such a public confession. I believe it was made.

To cross-interrogatory 7th:

Answer. I have heard the neighbors say so.

To cross-interrogatory 8th:

Answer. I can come no nearer the time elapsed since the death of the children mentioned in this question than I have already done.

To cross-interrogatory 11th:

Answer. I knew that Ambroise Roi married a Miss Laverdeur (not Labbadie or Labladie); she did not live long; had no children.

To cross-interrogatory 12th:

Answer. It is thirty years about since I saw Ambroise Roi.

To cross-interrogatory 13th:

Answer. When Mary Gendron was living with her mother and Simon Roi, and during their marriage, she was called the daughter of Simon Roi.

To cross-interrogatory 14th:

Answer. I do not know that Mary Gendron was reputed to be a bastard, and born before either Antoine or Simon Roi had any knowledge of her mother. I have heard this lately, not before. I do not know whether the people whom I heard talk on this subject know anything about it or not.

To cross-interrogatory 15th:

Answer. All I know about the matter of this question is, that Simon Roi brought the woman into my neighborhood, who was the reputed widow of Antoine Roi, with the family of said Antoine, including Mary Gendron; and that he, said Simon, afterwards married said widdow.

To cross-interrogatory 16th:

Answer. I never heard anything at that time of the legitimacy or illegitimacy of Mary Gendron.

To cross-interrogatory 17th:

Answer. I do not know when this suit was begun. I never heard anything from Roi or Miss Myette on the subject. I never heard the legitimacy of Mary Gendron talked about or questioned until lately.

his
NICHOLAS ⋈ BOISMENNE.
mark.

I, Nathaniel Niles, county judge of St. Clair County, do hereby certify, that the foregoing deposition of Nicholas Boismenne was taken by and before me, at the residence of said Boismenne, in St. Clair County, Illinois, on the 29th day of September, A.D. 1855, under and by authority of the annexed commission to me directed, in two certain causes, pending in the Circuit Court of the United States for the Northern District of Illinois, wherein William P. Bryant is plaintiff and Richard Gregg is defendant, and in the other of which Edward P. Tesson is plaintiff and the same Gregg is defendant. That, at the same time and place, the said deposition was reduced to

writing by me, and was sworn to and subscribed by the said witness Boismenne; the several interrogatories and cross-interrogatories, attached hereto and to said commission, to be propounded to him, having been first propounded to him by me, and his answer thereto taken in their order.

As witness my hand on the day last aforesaid.

NATHL. NILES,
Commissioner.

Joseph Chartrand.

Deposition of Joseph Chartrand, taken by and before me, N. Niles, county judge, &c., under and by authority of the annexed commission to me directed, out of the Circuit Court of the United States for the Northern District of Illinois, at the residence of said Chartrand, in St. Clair County, Illinois, on the 29th of September, A.D. 1855.

N. NILES.

Joseph Chartrand, being duly sworn as a witness, deposes and says, in answer to the interrogatories annexed hereto and to the commission attached, to be propounded to him and other witnesses, as follows:

(The witness being a Frenchman, not speaking English with facility, and speaking French, Robert Forsyth is sworn and acts as interpreter herein.)

To the 1st interrogatory the witness answers:

My name is Joseph Chartrand. I reside in St. Clair county, Illinois, near Illinoistown. I am 39 years old, and by occupation a farmer.

To 2d interrogatory:

Answer. I knew but one Roi, the father of Simon Roi and Margaret Roi. He, the father, died at Cantine, in this county.

To 3d interrogatory:

Answer. I never knew Antoine Roi.

To 4th interrogatory:

Answer. I know nothing of the matter of this question.

To 5th interrogatory:

Same answer.

To 6th interrogatory:

Same answer.

To 7th interrogatory:

Same answer.

To 8th interrogatory:

Answer. I knew Mary Gendron; she was a Roi. I knew her before her mother married the Roi who died at Cantine. She was the daughter of his second wife.

To 9th interrogatory:

I never knew Antoine Roi, nor the father of Mary Gendron.

To 10th interrogatory:

Answer. The Roi who died at Cantine was married when he first came to Cahokia, and when I first knew him. I did not know his wife's name. His second wife was his sister-in-law and the mother of Mary Gendron. I did not know her name.

To 11th interrogatory:

Answer. He said Roi had two children by his first wife; one son, Simon, and one girl, Margaret.

To 12th interrogatory:

Answer. Both these children died before their father. The boy was 19 or 20 years of age when he died; the daughter was married when she died.

To 13th interrogatory:

Answer. Simon the son was never married that I knew of.

To 14th interrogatory:

Answer. The girl Margaret was married to Paul Delongchamps.

To 15th interrogatory:

Answer. She, Margaret, never had any children that I knew of. I don't recollect any. I was small when she died. We live near each other.

To 16th interrogatory:

Answer. She said Margaret died before her father, and about twelve years before. I am not certain.

To 17th interrogatory:

Answer. Simon Roi had one child by his second wife, who died at 3 or 4 years of age. This was all I knew.

To 18th interrogatory:

Answer. This child died before its father.

To 19th interrogatory:

Answer. I knew Belthasar Latour. Knew nothing about Josette Roi, nor whose daughter or wife she was.

To 20th interrogatory:

Answer. I knew nothing about this. Mary Gendron and Belthasar Latour claimed a relationship with each other; but I knew nothing about any.

To 21st interrogatory:

Answer. I knew of no relations or descendants of Antoine Roi or Simon Roi, except Mary Gendron. I never knew Antoine Roi. Simon Roi called her his niece, and she called him her uncle.

To 22d interrogatory:

Answer. I know of no such relations of Simon and Antoine, except Mary Gendron and those heretofore mentioned. I know not Antoine Roy's relations or descendants.

To 23d interrogatory:

Answer. I know of no other matter or thing which I can now

think of. I was a near neighbor of the Roys, who died at Cantine one or two years.

Jos. Chartrand cross-examined.

To the 1st cross-interrogatory of the defendant the witness answered:

I do not know Mary Gendron. Must have been an infant when her father died. She was about 6 or 7 years old when I first knew her. We were children together.

To the 2d cross-interrogatory:

Answer. I have heard it said that Simon and his wife lived together some time before they were married. He always recognized Mary not as his daughter but as his niece.

To the 3d cross-interrogatory:

Answer. No. This Roi's daughter, the wife of Paul Delongchamps, was dead when the father went to live with Mary Gendron.

To the cross-interrogatory 44:

Answer. I do not know Miss Meyette. If she was the wife of this Roi and the mother of Mary Gendron, I never heard such imputations against her; never knew any such character to be imputed to her.

To the cross-interrogatories 5, 6, 7:

Answer. I was not present, and never heard of any such confession as that referred to in these questions.

To cross-interrogatory 8:

Answer. It is about 30 years and upwards since the death of Margarette Delongchamps. I have stated, nearly as I can, the times since that of the other children.

To the cross-interrogatory 9, addressed to this witness, he answers:

I know of a nephew of Paul Delongchamps, named Lewis Delongchamps, and a niece named Margaret Delongchamps, the former living in Cantine village, the niece in Florisant, Mo. I know of none named Lewis Chartrand and Margaret Martin. Paul Delongchamps is dead.

his
JOSEPH + CHARTRAND.
mark.

State of Illinois, St. Clair County, *ss.*

I, Nathaniel Niles, do hereby certify that the foregoing depositions of Madeline Glodon, Mary or Marie Gendron, Isadore Lecompte, Nicholas Boismenne, and Joseph Chartrand, were taken by and before me, at the places and on the day mentioned in the captions and certificates thereto respectively signed by me, under and by authority of the annexed commission to me directed, in two certain causes pending in the Circuit Court of the United States for the

Northern District of Illinois, wherein Wm. P. Bryant is plaintiff, and Richard Gregg is defendant; and in the other, Edward P. Tesson is plaintiff, and the said Gregg is defendant. That at the said times and places, namely, on the 25th, 26th, 28th, and 29th day of September last, the said witness, at their respective places of abode (except the said Lecompte, as aforesaid), sworn to and subscribed the said depositions (said Lecompte at the residence of Madam Godin), the same having been by me reduced to writing, and the interrogatories and cross-interrogatories attached hereto, and to said commission, to be propounded to said witnesses respectively, having been by me put to them, and their answers thereto taken down in their order; and that I am not of counsel or attorney of any or either of the parties to said suits or causes, nor interested in the event of the same or of either of them.

As witness my hand this 6th day of October, A.D. 1855, at Bellville, State of Illinois.

NATHANIEL NILES.

Depositions of Stephen Delille, F. Leclaire.

Interrogatories on the part of the Plaintiff.

1st. What is your age, place of residence, and occupation, and how long have you resided there?

2d. Did you ever know one Antoine Roi; if so, when and where did you know him?

3d. Did you ever know Etienne Papin and Marie Louise, his wife? If so, when were they married and where? Are they dead or alive, and if dead, when and where did they die?

4th. State whether or not said Marie Louise was the daughter of Antoine Roi or the daughter of his wife by a former husband, and born before his, Antoine's, marriage to her mother?

5th. What was the said Marie Louise's name at the time of the marriage of her mother to Antoine Roi, and about how old was she at that time?

6th. Do you know anything farther of benefit to either party?

July 22d, 1857.

Cross-interrogatories, to be propounded to Stephen Delille, of Portage des Sioux, St. Charles County, Missouri.

1st. If in answer to the fourth direct interrogatory, you say Marie Louise, the wife of said Papin, was born before the marriage of said Antoine Roi to her mother, I ask, did not said Antoine, after he had married her mother, acknowledge her and treat her as his daughter, and raised her as such?

2d. Was not said Marie Louise reputed among all her neighbors to be the daughter of said Antoine Roi?

3d. Did you ever hear any one dispute said Papin's wife being the daughter of said Antoine Roi until within three or four years past?

Stephen Delille.

The deposition of Stephen Delille, taken before the undersigned, a commissioner for that purpose, appointed by the said Circuit Court of the United States for the Northern District of Illinois, on the fifteenth day of August, A.D. 1857, at Portage des Sioux, St. Charles county, Missouri, under and by virtue of the commission hereto attached, to be read in evidence on the part of the plaintiff in the above-entitled cause; the said Stephen Delille being by me first cautioned and duly sworn to speak the truth, the whole truth, and nothing but the truth, so far as he should be interrogated.

In answer to the first interrogatory on the part of the plaintiff, deposes and says: I am seventy-one years old; my place of residence is here in the village; I work partly at tilling land and partly at wagon-making; I came here in 1813, and have been here ever since.

In answer to third interrogatory he says: I have known them both. I cannot tell of my personal knowledge when and where they were married. They are both dead.

Étienne Papin died at Saint Louis. Papin's wife, I believe, died at Portage, in this State, but I am not certain. I cannot tell now the time of their deaths. They were married when I came here.

To the best of my recollection Papin's wife died about thirty-five years ago. He, Papin, died about twenty-four or five years ago at his brother's in Saint Louis.

In answer to second interrogatory he says: I got acquainted with him here when I first came to this place. He was then living here. I worked with him in the harvest-field. The best I can recollect he resided here about fifteen years after I came here.

In answer to fourth interrogatory he says: Marie Louise was the daughter of Antoine Roy's wife by a former husband. I have no personal knowledge of the time of her birth.

In answer to fifth interrogatory he says: Antoine Roy was married to Marie Louise's mother when I first knew him. She, the daughter, was known by the name of Marie Louise Livernois. She was not reputed as the daughter of Antoine Roy. I knew her well, and never knew her spoken of by her acquaintances as Antoine Roy's daughter.

In answer to sixth interrogatory he says: I do not.

In answer to 1st cross-interrogatory he says: Antoine Roy raised Marie Louise as his daughter, as a step-father would; I do not know that he ever claimed her as such; I do not think he did.

In answer to 2d cross-interrogatory he says: Marie Louise was not reputed as the own daughter of Antoine Roy among her neighbors to my knowledge.

In answer to 3d cross-interrogatory he says: From the time that I first came here I heard her called Miss Livernois. I never heard any discussion about it at any time.

his
STEPHEN ⋈ DELILLE.
mark.

Francis Le Claire.

And the said Francis Le Claire, being also first cautioned and duly sworn to speak the truth, the whole truth, and nothing but the truth, so far as he should be interrogated,

In answer to 1st interrogatory deposes and says: I am about sixty-two; my place of residence is here at Portage des Sioux, in Saint Charles county, Missouri. I have resided here since 1813. I am a farmer.

In answer to 2d interrogatory he says: I have known Antoine Roy in this place from the time I came here until his death.

In answer to 3d interrogatory he says: I have known them both at this place for three or four years. I do not know when or where they were married. They are dead; I cannot state of my personal knowledge the place or time of their deaths.

In answer to 4th interrogatory he says: I do not know whose daughter Marie Louise was, but she was not reputed the daughter of Antoine Roy that I know.

In answer to 5th interrogatory he says; I do not know. I was not here at that time. I knew Marie Louise only after her marriage with Etienne Papin.

In answer to 6 interrogatory, he says: I knew Josette, the daughter of Antoine Roy. She married Balthasar Latour, a Canadian. She had a child that died small, a baby, and I think before her death. She died not more than a year or two after his death. She never had any more children.

In answer to the 1st cross-interrogatory, he says: I know nothing about it. I never heard Antoine Roy call her his daughter, nor heard her called Antoine Roy's daughter by her neighbors. Antoine Roy lived neighbor to us, and worked for my father in the harvest-field every year, as long as he lived.

In answer to the 2d cross-interrogatory, he says: It is more than I know; I never heard it said.

In answer to the 3d cross-interrogatory, he says: I never did, I never heard whose daughter she was, to my recollection. I never heard that she was the daughter of Antoine Roy.

his
FRANCOIS ⋈ LE CLAIRE.
mark.

Depositions of Charles Kettelle, Saml. Dimon.

Be it remembered, that, on the 18th day of August, A.D. 1854, at Peoria, county of Peoria, and State of Illinois, personally appeared before me, judge of the tenth Judicial Circuit Court of the State of Illinois, Norman H. Purple, and made affidavit that he was one of the attorneys for the plaintiff in a suit then depending in the Circuit Court of the United States for the District of Illinois, wherein William P. Bryant was plaintiff, and Richard Gregg, defendant; that the testimony of Samuel Dimon, Ralph Hamlin, Charles Kettelle, and A. Morton Braley, was material and necessary for the said plaintiff in the prosecution of said suit, and that each of the said witnesses lived in the county of Peoria, more than one hundred miles from Chicago, where the court, at which he, the said plaintiff, expected the said cause would be tried, was appointed by law to be held, and that Richard Gregg, the said defendant, and Charles Ballance, Esq., his attorney, both reside at Peoria, in the State of Illinois, about one hundred and sixty miles from Chicago, aforesaid, and I was requested, in behalf of the said plaintiff, that the said witnesses might be examined according to the directions of the act of Congress in such case made and provided.

Whereupon, I ordered that the said witness should be examined de bene esse before me at the office of the clerk of the County Court of Peoria, at the court-house in the city and county of Peoria, and State of Illinois, on the 2d day of September, A.D. 1854, at eight o'clock, A.M. of said day, and that one day's notice should be given to the said defendant, or his said attorney, of such examination, to the end, that he might, if he should see fit, be present at the examination, and put interrogatories; and I having satisfactory proof that such notice had been given, and as well the said plaintiff, by his attorney, as the said defendant, by his attorney, aforesaid, appearing before me at the office of the clerk of the County Court of Peoria County, at the court-house in the city and county of Peoria, State of Illinois, on this 2d day of September, A.D. 1854, at eight o'clock, A. M. of said day, I have therefore proceeded with the said examination.

And the said Charles Kettelle, being first carefully examined and cautioned, and duly sworn to testify the whole truth and nothing but the truth, saith:

Chas. Kettelle.

That he resides in the city of Peoria, and is clerk of the County Court in and for said county; that he has been such clerk a little more than four years last past; that he is acquainted with the south-west fractional quarter of section nine, in eight north, of range eight east, in Peoria county.

That Charles Ballance was in possession of said tract of land from

the year A.D. 1842 until the year 1846, when he laid out his addition to Peoria on said fractional quarter, and claimed to be the owner of said land during the whole of said time. That he has examined the books and records in his office, and can find no taxes due and unpaid against lots No. one, eight, seven, six, and four, in block forty-seven, in said Ballance's addition to Peoria.

That the assessor's book, returned and filed in the office of the county clerk of said county of Peoria, for the year A.D. 1843, show that said tract of land is assessed to Charles Ballance (S.E.), the southwest fractional quarter above specified; that he has examined the books and records of his office, and cannot find that French claim No. 33 and 29 (included in Ballance's addition to Peoria), have ever been assessed or taxed as "French claims," or by their boundaries, nor in any other manner, except as being included in the quarter section, and afterwards in lots in Ballance's addition, as laid off by him.

CHARLES KETTELLE.

I do further certify that the preceding deposition was reduced to writing by me, and signed by the said Charles Kettelle, in my presence, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

H. M. WEAD,
Judge 10th Judicial Circuit, Illinois.

Samuel Dimon.

And the said Samuel Dimon, being first carefully examined and cautioned, and duly sworn to testify the whole truth and nothing but the truth, saith:

That he was forty-three years old in May last, and that he resides in Peoria county; that he was assessor for said county in the year A.D. 1843, and in that year assessed the southeast and southwest quarter of section nine, in township eight north, of range eight east, in Peoria county, for that year, to Charles Ballance, at his request, and in the manner in which he requested him to make such assessments; that he, said Ballance, claimed at that time to be the owner of said lands, and said land was listed and assessed to him at his request.

SAML. DIMON.

And I do further certify, that the preceding deposition of Samuel Dimon was reduced to writing by me, and signed by him in my presence, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

H. M. WEAD,
Judge 10th Judicial Circuit, Illinois.

Plaintiff next gave in evidence a certificate of the application of Charles Ballance to enter the southwest quarter of 9, 8, N. 8 E., dated 27th November, 1837, which is as follows:

27th day of November, 1837.

No. 13,293.

I, Charles Ballance, of Peoria county and State of Illinois, do hereby apply for the purchase of the southwest fractional quarter of section numbered 9, in township numbered 8 north, of range numbered 8 east, of the fourth principal meridian, containing one hundred and forty-seven $\frac{43}{100}$ acres, according to the returns of the surveyor-general, for which I have agreed with the register to give at the rate of one dollar and twenty-five cents per acre, subject, however, to the rights of any and all persons claiming under act of Congress, 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.

C. BALLANCE.

4 147 43
36 85¾
\$184 28¾

I, Samuel Leech, register of the land office at Quincy, Illinois, do hereby certify that the fractional quarter section above described contains 147$\frac{43}{100}$ acres, as mentioned, and that the price agreed upon is \$1 25 per acre.

Pre-act, 1834.

SAML. LEECH,
Register.

REGISTER'S OFFICE, QUINCY, ILLINOIS,
March 3d, 1832.

I, Henry Asbury, register of the United States Land Office at Quincy, Illinois, do hereby certify that the foregoing is a true copy of the original application, No. 13,293, made by Charles Ballance, now on file in this office, and under which the land was entered, on the 27 day of November, 1837.

HENRY ASBURY,
Register.

Also a certificate of the county clerk of Peoria county, dated 16th February, 1856, which is as follows:

State of Illinois, Peoria County, *ss.*

I, Charles Kettelle, clerk of the County Court of Peoria County, do hereby certify that the following is a true transcript from the assessor's book, for the year 1845, of Peoria county.

Decription.	Sec.	Acres.	Value pr. Acre.	Total.	State Tax.	County Tax.
			\$	\$	\$ cts.	\$ cts.
Charles Balance, Pt. S. W.	9	42	50	2,100	6 30	6 30
Same, . . " S. W.	9	105$\frac{63}{100}$	100	10,563	31 68	31 68

Bounded as follows:

Beginning at a stone on the W. line of said S. W. quarter section 92 poles W. of the N. E. corner thereof; thence running S. 48 degs. east 56 poles, to a stake in the middle of Adams street; thence S. 48 degs. W., along the middle of Adams street, 19 poles, to a stake; thence south 48 degs. west, to the west line of said quarter section; thence south with said line, to the S. W. corner of said quarter section; thence E. to the Illinois river; thence up along the meanders of said river to where the line between the S. E. and S. W. quarter of section 9, T. 8, N. R. 8 E., strike said river; thence N. along said line to the N. E. corner of said quarter section, near Mr. Downs's house; thence west through said house to the place of beginning,—the four first of said lines being run according to the apparent meridian, but the others according to the real meridian.

And further certify that the assessor's book for the said year 1845 was filed in the office of the clerk of the County Commissioners' Court, July 24th, 1845.

All of which appears of record in my office. Also further certify that the following is the certificate of the assessor to the assessor's book for the year 1845.

State of Illinois, Peoria County.

I, William M. Dodge, assessor within and for said county, do hereby certify that the within contains a full and perfect assessment of the real estate subject to taxation for state and county purposes, in said county of Peoria, for the year 1845, so far as the same has come to my knowledge.

Given under my hand, this 24th day of July, in the year of our Lord one thousand eight hundred and forty-five.

WILLIAM M. DODGE.

Witness my hand and official seal, at Peoria, this 18th day
[L. S.] of July, A.D. 1856.

CHARLES KETTELLE,
Clerk.

Per GEO. H. KETTELLE,
Deputy.

Also, a deed from Narcisse Pensoneau and wife to John Rankin, dated April 3, 1849, which, with the acknowledgment and certificate of recording, is as follows:

Know all men by these presents, that we, Narcisse Pensoneau and Felicite Pensoneau, of the county of St. Clair, State of Illinois, for and in consideration of the sum of one dollar, to us in hand paid by John Rankin, of the city of Peoria, the receipt of which is acknowledged, have and do, by these presents, remise, release, and forever quitclaim unto him, the said John Rankin, all the interest and claim, of every nature whatsoever, which we may have in and to the

following described lots, situate in the city of Peoria, county of Peoria, State of Illinois, and known and particularly described in a certain deed made and executed by the said Narcisse Pensoneau to him, the said John Rankin, dated the 24th day of April, A.D. 1849, as lots or French claims No. 29 and 47.

To have and to hold the same unto him, the said John Rankin, and to his heirs and assigns, forever.

The words "and claim of every nature whatever," interlined before signing and acknowledging.

In testimony whereof, we have hereto set our hands and affixed our seals, this 30th day of April, 1849.

NARCISSE PENSONEAU. [L. S.]
FILLETTO PENSONEAU. [L. S.]

State of Illinois, County of St. Clair, *set.*

I, Theodore Engelmann, clerk of the Circuit Court within and for the county of St. Clair and State of Illinois, hereby certify that Narcisse Pensoneau and Felicite his wife, whose names are signed to the foregoing instrument of writing as having executed the same, are personally known to me to be the real persons who executed the same, and that they appeared before me and severally acknowledged the said instrument to be their act and deed, for the purposes therein mentioned.

And I further certify that the said Felicite Pensoneau was by me first made acquainted with the contents of said instrument, and examined separate and apart from her said husband, whether she had executed the same, and relinquished her right of dower in and to the lands and tenements therin mentioned and described voluntarily, freely, and without compulsion of her husband, and that she thereupon declared that she executed the said instrument, and relinquishes her dower in the lands and tenements therein mentioned voluntarily and without compulsion of her husband.

In testimony whereof, I have hereunto signed my name, and [L. S.] affixed the seal of said court at office, this thirtieth day of April, A. D. one thousand eight hundred and forty-nine.

THEOD. ENGELMANN.

State of Illinois, County of Peoria.

RECORDER'S OFFICE.

I, Charles Kettelle, recorder of said county, do hereby certify the within deed is duly recorded in said office, in book V., page 81.

CHARLES KETTELLE,
R. P. Co.

Also, a deed from Narcisse Pensoneau and wife, to Samuel B. Chandler and Alfred Coles, dated 26th May, 1840, which, with the acknowledgment and certificate of record, is as follows:

This deed, made and entered into this twenty-sixth day of May, in

the year of our Lord one thousand eight hundred and forty, between Narcisse Pensoneau and Feliceeta, his wife, of the county of St. Clair, and State of Illinois, of the first part, and Samuel B. Chandler and Alfred Coles, of the State of Illinois, of the second part, witnesseth, that the said Narcisse Pensoneau, of the first part, for and in consideration of the sum of twenty-five hundred dollars, in hand paid, by the said parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents, do grant, bargain, sell, convey, and confirm unto the said parties of the second part, their heirs and assigns, forever, the following described piece or parcel of land, situate, lying, and being in the county of Peoria, and State of ———, and known and designated on the plat of the town of Peoria, at a place called formerly Fort Clark, on the Illinois River, being all the interest or title deeded to me from Hyacinth Pausien by deed, dated 10th September, 1835, as heir to Antoine Grandbois, it being a lot of Antoine Grandbois', bounded on the east by lot of Raphael Ballinger, and on the west by lot of the heirs of Louis Pensoneau; also, three-fourths of six acres lying and being in the same county, bounded on the north by lot of Francis Racine, running back; also, three-fourths of three lots in said town of Peoria, one of which is bounded as follows: on the south by Antoine Roi, one bounded north by Francis Dupre, and on the south by Antoine Roy; the third lot is bounded on the north by Jaques Mette, and on the south by Charles Labella.

Together with all and singular, the appurtenances thereunto belonging, or in anywise appertaining, to have and to hold the above-described tracts or parcels of land unto the said parties of the second part, their heirs and assigns, forever, and they, the said parties of the first part, for themselves and their heirs, executors, and administrators, do covenant to and with the said parties of the second part, and their heirs, that until the ensealing of these presents, they were lawfully seized of the said premises as an indefeasible estate in fee simple, and are free from all incumbrances; and the said lots and the aforesaid tract or parcel of lands and premises, unto the said parties of the second part, their heirs and assigns, against the claim or claims of all and every person whomsoever, do and will warrant and defend by these presents.

In testimony whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

NARCISSE PENSONEAU. [SEAL.]
FELCETTA PENSONEAU. [SEAL.]

In the presence of

State of Illinois, St. Clair County, *ss.*

Be it remembered, that on this twenty day of *sixth*, A. D. one thousand eight hundred and forty, before me, John Hay, clerk of the Circuit Court, for and within the said county of St. Clair, personally

came Narcisse Pensoneau and Fellecette, his wife, personally known to me to be the persons whose names are subscribed to the foregoing instrument of writing, as having executed the same, and severally acknowledged the same to be their free act and deed, for the uses and purposes therein expressed. The said Felicitte Pensoneau being first made acquainted with the contents thereof, and examined separate and apart from her said husband, acknowledged and declared that she executed the said deed, and relinquished her dower to in the said lands and tenements therein mentioned, voluntarily, freely, and without compulsion of her said husband, according to the true intent and meaning thereof, and the acts of Assembly in such cases made and provided.

In testimony whereof, I have hereunto set my hand and [SEAL.] affixed the seal of said court, at office, in Bellville, the day and year above written.

JOHN HAY.

State of Illinois, Peoria County, *ss.*

I, Enoch P. Sloan, clerk of the Circuit Court, and ex-officio recorder for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is a true and correct copy of a deed and of the certificate of acknowledgment thereof, as fully as the same remains of record on pages 338 and 339 in book "L.," in the recorder's office of said county.

Witness my hand and the seal of said court, this 9th day of [L. S.] March, A. D. 1857.

ENOCH P. SLOAN,
Clerk.

Also, a deed from Alfred Coles and Samuel B. Chandler, to William C. Kinney, dated 11th February, 1842, which, with the acknowledgment and certificate of record, is as follows:

Entered November 8th, 1842.

This indenture, made the eleventh day of February, one-thousand eight hundred and forty-two, between Alfred Coles, and Charlotte, his wife, of Alton, county of Madison, and State of Illinois, and Samuel B. Chandler, and Adeline, his wife, of Bellville, parties of the first part, and William C. Kinney, of Bellville, in the said State, of the second part, witnesseth, that the said parties of the first part, in consideration of four hundred dollars, to them duly paid, before the delivery hereof, have bargain, and sold, and by these presents, do grant, and convey to the said party of the second part, his heirs and assigns, forever, all those certain lots in the town of Peoria, in the county of Peoria, and State aforesaid, known and described as follows, to wit: being all the interest deeded to us by deed from Narcisse Pensoneau, and Felecuite his wife, by deed to the said Alfred Cowles, dated the 26 day of May, 1840, to lots therein mentioned, to wit:

A lot of Antoine Grandbois, bounded on the east by lot of Raphiel Bellenger, and on the west by lot of the heirs of Louis Pensoneau, also, three-fourths of three acres lying and being in the same county, bounded on the north by lot of Francis Racine, running back; also, three-fourths of three lots in said town of Peoria, one of which is bounded as follows: on the south by Antoine Roy; one bounded north by lot of Francis Dupree, and on the south by Antoine Roy; the other lot bounded on the north by Jaques Mattae, and on the south by Charles La Belle; with the appurtenances and all the estate, title, and interest of the said parties of the first part therein, and also, the said party of the first part do hereby covenant and agree with the said party of the second part, that at the time of delivery hereof, the said party of the first part is the lawful owner of the premises above granted, and seized thereof in fee simple absolute, and that he will warrant and defend the above-granted premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, forever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year above written.

SAMUEL B. CHANDLER. [SEAL.]
ALFRED COWLES. [SEAL.]
CHARLOTTE COWLES. [SEAL.]
ADELINE CHANDLER. [SEAL.]

Sealed and delivered
in presence of
SAMUEL G. BAILEY.

State of Illinois, County of Madison, *ss.*

Be it known, that on the day of the date hereof, before me, a notary public in and for the city of Alton, in said county, came Alfred Cowles and Charlotte Cowles, his wife, who are personally known to me to be the same persons who executed the foregoing deed, and acknowledged they signed and sealed said instrument of writing, freely and voluntarily for the use and purpose therein specified; on the same day came also Charlotte Cowles, wife of the said Alfred Cowles, and she having by me been made acquainted with the contents of said, and being by me examined separate and apart from her said husband, did confess and acknowledge that she executed the said deed of consequence voluntarily, knowing its contents and effects, and without compulsion of her said husband, and does not wish to retract the same, and that she relinquished her right to dower in the premises therein described.

In testimony whereof, I have hereunto set my hand and notarial seal, at Alton, this twenty-fourth day of February, A.D. [SEAL.] 1842.

SAMUEL G. BAILEY,
Notary Public.

State of Illinois, St. Clair County, *ss.*

Be it remembered, that on the twenty-fifth day of March, A.D. one thousand eight hundred and fifty-two, before me, Alexander Reany, a justice of the peace for and within the said county of St. Clair, personally came Samuel B. Chandler and Adeline, his wife, personally known to me to be the persons whose names are subscribed to the foregoing instrument of writing, as having executed the same, and severally acknowledged the same to be their free act and deed for the purposes therein expressed, and the said Adeline Chandler being by me first made acquainted with the contents thereof, and examined separately and apart from her said husband, acknowledged and declared that she had executed the said deed and relinquished her dower in the land and tenements therein mentioned, voluntarily, freely, and without the compulsion of her said husband, according to the intent and meaning thereof, and the acts of the General Assembly in such case made and provided.

In testimony whereof, I have hereunto set my hand and seal, at my office in Bellville, the day and year above written.

ALEX. REANEY, [SEAL.]
Justice of the Peace.

State of Illinois, St. Clair County.

I, James M. Reynolds, clerk of the County Commissioners' Court, within and for said county of St. Clair, certify that Alexander Reney, whose name is subscribed to the foregoing certificate of acknowledgment, was at the time of executing the same, an acting justice of the peace for the within named said *said* county, and as such full faith and credit are, and ought of right to be given to all his official acts.

In testimony whereof, I have hereunto set my name and affixed the seal of said court, at my office in Bellville, the 25th [SEAL.] day of March, 1842.

J. M. REYNOLDS,
Clerk.

State of Illinois, Peoria County, *ss.*

I, Enoch P. Sloan, clerk of the Circuit Court and ex-officio recorder for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is a true and correct copy of a deed and of the accompanying certificate thereof *thereof*, as fully as the same of record on pages 120 and 121, in book N., in the recorder's office in said county.

Witness my hand and the seal of said court, this 9th day of March, A.D. 1857.
[L. S.]

ENOCH P. SLOAN,
Clerk.

Also, a certified copy of the same deed given in evidence by the defendant from Belshezzer Latture and Catharine Latture, his wife, and Touissaint Gondro and Mary Gondro, his wife, dated 24 Oct., 1839, to Seth Converse, with the certificate of the recorder of Peoria county, showing the time of recording of said deed, which said deed and the acknowledgment and certificate of the record thereof, are as follows:

October 4th, 1854.

This indenture, made the 24th day of October, in the year of our Lord one thousand eight hundred and thirty-nine, between Belshezzer Latture and Catharine, his wife, and Baptease or Tousant Johnroe, and (Mary his wife, who was before marriage Mary Roi), all heirs at law to the late Antoine Roi and Simon Roi, formerly of or about Fort Clark, of Peoria, and State of Illinois, of the 1st part, now of the County of St. Clair, and State of Illinois, and Seth Converse of the 2d part, of the county and State aforesaid, witnesseth, that the sd. parteys of the 1st part, for and in consideration of the sum of six hundred dollars, in hand paid by the sd. Converse of the second part, the receipt whereof is hereby acknowledged, harth and do by these presents bargain and sell unto Seth Converse of the 2d part, and to his heirs and assigns, forever, all their right, title, and interest to the following parcels of land, to wit: No. 28, about half an arpent; and also No. 29, and about half an arpent; and also No. 30, one and a half arpent; and No. 31, about six arpents; and also a $\frac{1}{3}$d of a lot, or an old field, of about 30 arpents; ale of the above being the original right of Simon Roi, of Peoria; and also all our right and title of the original right of Antoine Roi, namely, No. 33, one and a half arpent; and No. 34, $\frac{1}{2}$ arpent; and also No. 35, $\frac{1}{3}$d of an out lot, and of about 30 arpents.

To have and to hold unto him of the second part, and his heirs and assigns, the named parcels of land, together with all the hereditaments and appurtenances thereunto belonging.

In witness whereof, we and each of us have hereunto set our hands and seals, this twenty-fourth of October, one thousand eight hundred and thirty-nine. All of the above-named parcels of land is situated in or near Fort Clark, and in and about Peoria, in the State of Illinois, and near Illinois river. For further particular, reference can be had at the general land office.

his
BELCHEZER ⋈ LATTURE. [SEAL.]
mark.

her
CATHARINE ⋈ LATTURE. [SEAL.]
mark.

A. H. COOK.

his
TOUSANT ⋈ GONDRO. [SEAL.]
mark.

his
CHARLES ⋈ MAIS.
mark.

her
MARY ⋈ GONDRO. [SEAL.]
mark.

State of Illinois, St. Clair County.

I, Alexander H. Cook, a justice of the peace of said county, do certify, that Belchezer Latture and Catharine Latture his wife, and Tousant Gondro, and Mary Gondro, the wife of the said Tousant Gondro, whose signature appears to the foregoing deed, and who are personally known to me to be the persons described in and *and* who executed the same, did severally acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned; and the said Catharine Latture and Mary Gondro, having been by me made acquainted with the contents of the said deed, and examined separate and apart from their said husbands, acknowledged that they had executed the same and relinquished their dowers to the premises therein conveyed, voluntarily, freely, and without compulsion of their said husbands.

Given under my hand and seal, this 24th day of October, in the year of our lord, one thousand eight hundred and thirty-nine.

ALEXANDER H. COOK, [SEAL.]
Justice of the Peace, St. Clair County, Illinois.

State of Illinois, St. Clair County, *ss.*

I, John Scheel, clerk of the County Court for St. Clair County, and ex-officio recorder of civil commissions, in and for said county, certify, that Alexander H. Cook was, on the 24th day of October, 1839, an acting justice of the peace of St. Clair county, Illinois, duly elected, commissioned, and qualfied, and that full faith and credit is and ought to be given to all his official acts as such justice of the peace.

[L. S.] Witness John Scheel, clerk of said County Court, and the seal thereof, at office, Bellville, this 27th day of September, 1854.

JOHN SCHEEL.

State of Illinois, Peoria County, *ss.*

I, Jacob Gale, clerk of the Circuit Court, and ex-officio recorder of the county of Peoria, in the State of Illinois, do hereby certify, that the foregoing is a full and correct copy from the record of a deed, and the certificate thereto, as the same are recorded in my office, on pages 50 and 51, in Book L. A. of Records of Deeds, and that the time of filing said deed for record in my office as aforesaid, was on the fourth day of October, in the year 1854, as appears by the entry books of the recorder's office in said county.

[L. S.] In witness whereof, I hereto set my hand and affix the seal of said Circuit Court, at my office, in Peoria, this sixteenth day of July, in the year of our Lord one thousand eight hundred and fifty-five.

JACOB GALE,
Clerk and Recorder.

Defendant then requested the court to instruct the jury as follows:

"*B.*"

WILLIAM P. BRYANT
v.
RICHARD GREGG. } In Ejectment.

Defendant moves the court to instruct the jury,

1st. That the patent introduced in evidence by the defendant, conveyed complete indefeasible estate in fee simple to said Ballance, provided *provided* the United States then had such title in said premises; at any rate it conveyed all the title the United States then had.

2d. That whatever title the representatives of Simon Roi may have had to the premises in controversy, by virtue of the act of 3d March, 1823, and the survey of 1st September, 1840, made in pursuance of it, they have no title to said premises by virtue of the patent to the legal representatives of said Simon Roi.

3d. That said act of 1823, and said survey of 1840, did not vest said title in the legal representatives of said Antoine upon his death, because the grant is made to him, not to him and his heirs.

4th. That if any person, or persons, could inherit said land under, they it was, the heirs of said Mrs. Le Droux, who became the wife of said Roi.

5th. That said defendant is in a situation to plead the statute of limitation, both of twenty years, against said plaintiff, and that if the jury believe from the evidence that said Ballance, or those holding under him, have been in possession, by inclosing, building on and occupying it, more than seven years, under the title defendant has exhibited, then plaintiff cannot recover in this action.

6th. That to be able to avail himself of the statute of limitation of 1835, it was not requisite that his dwelling-house should be upon the identical spot sued for. It is sufficient if they believe he lived in the immediate vicinity, and occupied the spot in controversy as a distillery, malt-house, and place of business.

7th. That the Fox title, introduced by defendants, is a complete bar to plaintiff's action, it being a divestiture of whatever title he may have had.

8th. That whether said Fox title be good as a paramount title or not, it is title enough to base the statute of limitations upon; and, therefore, if they shall believe from the evidence that said Ballance, by his tenants, have had such title as above described for more than seven years, under said purchase, said plaintiff cannot recover in this action.

9th. That it is not sufficient that the jury should believe, from the evidence, that Antoine Roi married the mother of Mary Gendron, and

raised her and adopted her as his daughter. The jury must also believe from the evidence that said Mary was begotten by him.

10th. But if the jury believe from the evidence that said Mary was more probably begotten by said Louis Roi than by said Antoine, the plaintiff is not entitled to recover in this action.

11th. That if the jury shall believe from the evidence, that the probabilities are as great that said Mary Gendron was begotten by Louis Roi, or some other person, as that she was begotten by said Antoine Roi, the plaintiff is not entitled to recover.

12th. That if they believe from the evidence, that the gronnd sued for in this action is not the ground claimed before the register of the land office at Edwardsville in 1820, and which was reported by Coles, the register of said office, to the secretary of the treasuary of the United States as lot No. 29, the plaintiff is not entitled to recover.

13th. That so far as this controversy is concerned, the clause in defendant's patent, subject to the rights, &c., is without any effect whatever; that the rights of these parties are precisely the same as if said clause was not there.

14th. That if the jury believe from the evidence that Mary Gendron was born in Missouri, and her mother intermarried with Antoine Roi, and that he acknowledged her as his daughter until his death, which also happened in Missouri, before the State of Illinois was admitted into the Union, the plaintiff cannot recover in this action, because there was then no law in Illinois enabling the illegitimate child to inherit from its father, on account of his intermarriage with the mother and acknowledging such child; it being a rule of law that the law of the place where land lies governs the descent of land, and not the law of the place where the parties lived.

15th. That the burden of proof is on the plaintiff, and less he has clearly made out his case, he cannot succeed in this suit. He cannot rely upon the weakness of the defendant's title.

Which instructions as asked the court declined to give, but instructed the jury as follows:

Instructions given.

1st. That the acts of 1820 and 1823, taken in connection with the report of the register of the land office at Edwardsville, the survey of the surveyor-general, and the patent, vested the legal title to the lot in the legal representatives of Simon Roi; that until the lots was surveyed, and the survey approved as required by the statute, the claimant could not know the boundaries and extent of the lot, and until that time there could be no adverse possession under any of the statutes of limitations.

2. That the plaintiff claiming through Mary Gendron, the jury must be satisfied that she was the sole surviving heir of Simon Roi (the court explaining to the jury the rule of descents). It was a

question of fact for them. If she was the daughter of Antoine Roi, born before his marriage with her mother, and after her birth her father and mother were married in Missouri at the time mentioned, such marriage of her father und mother in Missouri rendered the child legitimate, and being legitimate by the law of Missouri, she was capable of inheriting lands in Illinois, as the legal representative of her father or her uncle.

3. If there were children of Simon Roi living at his death, or their descendants, or if there were other children of Antoine Roi besides Mary, then if such children or their descendants had been absent from their places of residence, and nothing had been heard of them by their friends and acquaintances for seven years or more, then they might be presumed to be dead.

4th. That the jury must find from the evidence that the title by mesne conveyances has become vested in the plaintiff, in order to authorize a verdict in his favor.

5th. The plaintiff must recover, if at all, on the strength of his own title.

6. If Antoine Roi acknowledged Mary Gendron as his child, before, at, and after his marriage with her mother, and presented her as such to receive baptism, these are strong circumstances tending to prove she was his child.

7. Whoever may be the parties to the deed to Seth Converse, of 24 October, 1839, it did not take effect as to persons claiming through the same grantors, until it was filed for record, unless the persons claiming by subsequent deed, had notice at the time of their deed, or filing of the same for record, of such prior deed. And the court was besides of the opinion, that the acknowledgment in the deed of October 24, 1839, was not sufficient under our law to pass the inheritable estate of the wife.

8. The Supreme Court of the United States have recently decided, that such a title as that shown by the defendant in this case, that is, the patent to Ballance, was the kind of title required by the statute of limitations, but there is a saving in the statutes for married women.

9. The court was of the opinion that the tax title set up in defence, was not an absolute title, from various facts which appeared in evidence, and which were not disputed, among others, because it appeared that lot 29 was assessed as a part of the $105\frac{63}{100}$ acres, and that there were different owners to different parts of the whole tract assessed, the court saying to the jury, while leaving the facts to them, that if from the 1st Sept., 1840, until the assessment was made, under which the taxe sale took place, the person or persons who owned lot 29, under the acts of Congress, did not own and had no interest in any of the remaining portion of the $105\frac{63}{100}$ acres, which were assessed together, then the act of assessing that quantity altogether was illegal, and was in effect compelling one man to pay taxes on the land of another.

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That lot 29 was granted under the authority of an act of Congress, and the officers of the State had no power under any law in force, to ignore these rights of property thus granted.

10. If there has been possession of the land under claim and *colour* of title, made in good faith by the defendant, for seven years before suit brought, and the taxes for that time have been paid by the defendant or by Ballance, then the plaintiff is not entitled to recover, but the deed given in evidence under the tax sale was not made till 1850.

11. Unless the jury believe from the evidence, that Mary Gendron was the daughter of Antoine Roi, the plaintiff cannot recover.

12. Under the act of 1835, it is not pretended that it is absolutely necessary that the dwelling-house should be on the property in dispute, but the residence must be connected with it in some way, and it was for the jury to determine whether the subdivision of the land into lots and outlots, by Ballance, in 1846, and the other facts detailed in evidence, constituted a severance of the possession. The mere fact of such subdivision did not of itself create a severance of the possession, but it might be considered by the jury, in connection with other facts.

Defendant requested the court to exclude from the jury said deed from Narcisse Pensoneau to John Rankin, dated April 23, 1849, which the court refused to do.

To all of which decisions and rulings of said court, so made against said defendant, he then and there excepted, and prays that this his bill of exceptions, may be signed and sealed, and made part of the record in this cause, which is done, October, 1857.

THOMAS DRUMMOND. [SEAL.]

Filed Oct. 19, 1857.

WM. H. BRADLEY,
Clerk.

Northern District of Illinois, *ss.*

I, William H. Bradley, Clerk of the Circuit Court of the United States for said Northern District of Illinois, do hereby certify the foregoing transcript to be a true, full, and perfect copy from the record of all the proceedings which have been had in said court, in said entitled cause of William P. Bryant against Richard Gregg.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at my office in Chicago, in [SEAL.] said Northern District, this twenty-eighth day of November, in the year of our Lord one thousand eight hundred and fifty-seven, and of our independence the 82d year.

WILLIAM H. BRADLEY,
Clerk.

The United States of America, Northern District of Illinois, *ss.*

In the Circuit Court of the United States for the Northern District of Illinois.

WILLIAM P. BRYANT
v.
RICHARD GREGG. } Ejectment.

Be it remembered, that on the eighteenth day of July, in the year of our Lord one thousand eight hundred and fifty-nine, the following writ of error was sued out and filed in the office of the clerk of the Circuit Court of the United States for the Northern District of Illinois, and reads as follows, to wit:

United States of America, Northern District of Illinois, *ss.*

The United States of America, to the Judges of the Circuit Court of the United States for the Northern District of Illinois, greeting: Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said court before you, between William P. Bryant and against Richard Gregg, a manifest error hath happened, to the great damage of the said Richard Gregg, as by his complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the law and custom of the United States should be done.

Witness, the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States, this fourteenth day [L. S.] of July, in the year of our Lord one thousand eight hundred and fifty-nine, and of our independence the 84th year.

WM. H. BRADLEY,
Clerk.

Indorsed: Filed July 18, 1859. Wm. H. Bradley, Clerk.

And also on the same day, to wit, the 18th day of July, A. D. 1859, the following bond was filed in the clerk's office of the Circuit Court of the United States, for the Northern District of Illinois, to wit:

United States of America, in the Circuit Court of the Northern District of Illinois.

Of the July Term, A. D. 1859.

RICHARD GREGG
v.
WILLIAM P. BRYANT. } In Error.

Know all men by these presents, that we, Charles Ballance and Samuel Voris, are held and firmly bound unto the above-named William P. Bryant, in the sum of two hundred dollars, to be paid to the said William P. Bryant, his executors or administrators, to which payment well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this 11th day of July, 1859.

Whereas the above-named Richard Gregg has prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rended in the above-entitled cause, made in favor of said Bryant by the said Circuit Court. Now, therefore, the condition of this obligation is such that if the above-named Richard Gregg shall prosecute his said writ of error to effect, and answer all costs, if he shall fail to make good his plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

C. BALLANCE. [SEAL.]
SAML. VORIS. [SEAL.]
By his attorney in fact,
C. BALLANCE. [SEAL.]

Sealed and delivered
in presence of

Indorsed: Approved. Thomas Drummond. Filed July 18, 1859. Wm. H. Bradley, clerk.

And afterwards, to wit, on the 24th day of October, A.D. 1859, the following citation, and proof of service thereof indorsed thereon, was filed in the office of the clerk of the Circuit Court of the United States for the Northern District of Illinois, and reads as follows, to wit:

United States of America, *ss.*

To William P. Bryant, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the Circuit Court of the United States for the

married his widow and lived there for some time "about the year 1808 or 1809, they removed from Peoria." 3 Am. St. papers 421.

The patent in this case differs from the other in this: Antoine claiming in his own right, his patent so recited it; but here the patent recites that "whereas it further appears from the certificate aforesaid, that the said Charles Le Doux is the inhabitant or settler, within the purview of the confirmatory act," &c.

To prove, on the part of the Plaintiff below, that Mary Gendron, through whom he claimed, was the heir, and only heir at law of Simon Roi; and to disprove it, on the part of the Defendant below, the record is loaded down with a confused mass of contradictory depositions. Some witnesses' depositions were taken twice, and Magdaline Glodon's no less than five times. To introduce here on abstract of this contradictory mass, would require more space than I am inclined to allow it, but that the Court may see that the verdict and judgment were not warranted by the evidence, I will call the attention of the Court to a few facts, found in said depositions.

1st. Mrs. Glodon's evidence contradicts itself. On page 20, she says she "is now 57 years of age, that she was two months old when she came to Peoria." On page 78 she says: "I lived in Peoria sixteen years—up to the year 1812." Then, 16 taken from 1812, leaves 1796, for the year of her birth. This deposition was taken in 1854; then she was 58 years old. The next spring she swore (page 76) that she was "61 years of age." On page 78, she swears that she "lived in Peoria for sixteen years, up to the year A. D. 1812." On page 20, she swears that "she lived about three years" of that time in Cahokia. On page 97, she says: "that she resided in the village of Peoria, Illinois, from the year 1806 to 1812."

On page 20 she says: "Antoine Roi had no other relation, (brother or sister) except the said Simon Roi, to the knowledge of deponent;" yet, in all her other depositions, she speaks of others, and gives their names, and the contest was as to how many of them were yet alive, or whether they were all dead.

On page page 79, she says, Simon Roi died before his daughter Margaret. On page 21, she says: "the son, daughter and grand-child of said Simon Roi, all died before he did." In her deposition, on page 97 the fact that there was such a person is suppressed. She also says in her first deposition, (page 20) "Antoine Roi never had any other children." In her second deposition (page 78) she says: "I know that he had two children by his first wife. One of them was a daughter, and married a man named Latour." "Do not know that he had children by his second wife." All the witnesses however, who speak to this point, show that he had several children. In her deposition on page 21, she says: "Margaret, the daughter, married Paul Delongchamps and had *one child*, which died in Infancy. She afterwards died without any other "issue." On page 80, speaking of this same Margaret, she says: "I have heard that she had *children* but never knew anything about *them*, I never knew or saw *them*. I knew Margaret and her husband Paul Delongchamps *very well*.

2d. Her testimony is improbable; for instance, she says, (page 20) she was married at 11 years old.

3d. Her evidence is contradicted in several important particulars, by other, and unimpeached witnesses. She swears all the way through that Antoine Roi lived for several years, and finally died in Illinoistown, in the State of Illinois; yet, Mary Gendron, the vendor of Plaintiff below, and his own witness swears, page 25, "he died at Portage de Sioux, in Missouri." On page 112, Isadore Le Compt swears, "I knew Simon Roi. I was once his neighbor. I never knew Antoine Roi. I recollect very well Simon Roi told me that his brother Antoine had died somewhere up in Illinois, and that he, Simon, was going up to get his sister-in-law." On page 116, Boismenue swears that "Antoine died at Portage des Sioux, about the year 1820 or 1822." In her second deposition, page 81, she says her husband "was not present when my deposition was taken;" yet, the Magistrate who took it swears (page 85) "he was present when I took her deposition, heard me reading the same to her, and made no objection thereto." Again, she re-

presents (page 85) said officer as having taken her deposition without an interpreter, when she did not understand English, nor he French; but he swears, (page 85) "I have resided for seven years among French people; for the last six or seven years in the village of Cahokia, in the county of St. Clair, and State of Illinois, where none but the Erench language is seldom spoken; taught French children English, the most of that time. I was married for about three years, to a woman who was French, (or of French descent,) and who spoke little but in the French language. I understand the French language, and can converse in it very well."

The same recklessness in swearing characterizes other portions of this testimony; for example: Isadore Le Compt swears (page 22) "that he was well acquainted with Antoine and Simon Roi." "That they (Antoine and Simon) both removed to this county shortly after that date. That Antoine Roi died in St. Clair county—left a widow and three children" &c. Yet, "I recollect very well when Simon Roi told me that his brother Antoine had died somewhere up in Illinois," &c.

But amidst all this confusion and contradiction of testimony, it may be admitted to be proved:

1st. That Simon Roi, whose name appears in said report as a claimant of lot 29, is dead.

2d. That when he died he left no father, mother, brother or sister, nor son to inherit his right.

3d. That whether he left any daughter is a matter of dispute. Mrs. Glodon having sworn (page 79,) that Simen Roi died before his daughter Marguerite, who married de Longchamps, and on the next page that Marguerite died first.

4th. Simon had no sister, and no brother except Antoine, who is dead, but whether Antoine left any descendants is a point disputed. He had several children that died without issue, but, he had a daughter that married Latour, who is dead; but whether she left any descendants is not made clear—perhaps the jury had a right to infer from the evideece that her children were dead, but his oldest daughter Marie Louise, "was married

to one Papin, now dead, (see page 25.) That this one had children some of whom are alive is well settled, but it is attempted to be established by the testimony of Aspasie Johnson, Mr. and Mrs. Delille, Mr. Le Claire, Mrs. Beguet and Mrs. Marley that she was in fact not the daughter of Antoine Roi at all, but of some other man before he married her mother.

The hypothesis of Plaintiff below is that Mary Gendron is the heir at law of both these men. It may be conceded that they were brothers, and that if she was the only heir of Antoine, she was the heir of Simon. It is not disputed, that she was born in Missouri, out of wedlock, before the introduction of the common law into that State, (then territory) and that after she was born, Antoine Roi married her mother, and raised her until she was ten years old, as his own child, but by whom was she begotten is a question not well settled. There is perhaps proof conducting to show that Antoine was her father, but the evidence, I think greatly preponderates in favor of Louis Roi being her father.

Upon the supposition that the heirship of Mary Gendron had been sufficiently proved, the Plaintiff below for the sake of showing title under said patent, read to the Jury without objection, several deeds, and a power of Attorney, of which I shall take no further notice, but as one link in his chain of title, he read a deed from Gendron and wife to William C. Kinney, to which I object, because the description is vague. It is on page 37 of the printed record. The description is " The same interest, title or claim, I have in and three-fourths heretofore conveyed, of the following described tract or lot of ground," &c. To the reading of this deed, objection was made, in the Court below, but the objection overruled. I make this objection with the greater confidence, because this deed, for this very reason. has long since been decided bad in Illinois.

Plaintiff below read, my objection to the contrary notwithstanding, a record showing a judgment of the Peoria Circuit Court in favor of Daugherty against Rankin and another, and an execution issued thereon, and sale of the lot in dispute, to said Daugherty. (page 21.)

The declaration contains four counts: The first on a promissory note for $700. 2d. For the price of certain lands, goods, wares and merchandise. 3d, For money lent. 4th, For money had and received, for interest and money found to be due upon settlement—Profert of the letters of Administration is made. (page 42.)

A summons was isssued upon which the Sheriff returns: "I have summoned the within named John Rankin and John T. Lindsay, to appear," &c. It does not appear when the summons was served or returned. (page 43.) Judgment was taken by default (page 44) and it states "but because the Court knows not what damages the plaintiff had sustained, and it appearing that this action is brought upon an instrument in writing, for the payment of money only, *the clerk* is directed to make an assessment thereof, and report the same to the Court, which is accordingly done, and reported to the Court, at the sum of seven hundred and twenty-six dollars, and thirty-six cents, which report is approved by the Court. Therefore it is considered," &c. Neither the letters of administration nor note, appear to have been given in evidence.

The levy and sale are made by virtue of an *alias fi. fa.*, their being no original *fi. fa.* in the the record. The Sheriff's return to the *fi. fa.* states: "And afterwards to wit: on the 16th day of March, A.D. 1852, I advertised all the above described property for sale, at the door of the Court House, in said county, on the 10th day of April, A.D., 1852, by posting up printed notices of said sale, in three of the most public places in my county. And afterwards, to wit, on the the 10th day of April aforesaid, at two o'clock, P. M. of said day, I attended at the place of sale, and offered the whole of said property at public vendue, whereupon James Daugherty bid for the said claim, No. twenty nine as above described, the sum of two hundred and fifty dollars, and for said claim No. thirty three, as above described, the sum of fifty dollars," &c. (page, 46.)

He next gave in evidence or a deed from the Sheriff of Peoria County to the Plaintiff below. This deed recites the said judgment, execution, levy and sale, and the assignment to Plaintiff below. (page 47.)

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He next gave in evidence a long Chancery record, purporting to correct the erroneous description in the deed of 27 Feb. 1849, on page 37. The bill (page 48) sets forth that said description was erroneous; that it was the intention of all the parties that an undivided three-fourths should be conveyed. To the bill is appended, as exhibits, copies of all the foregoing title papers, but it does not appear that any summons was issued, or any appearance by Defts. entered nor do the original documents appear to have been produced. There are no answers in the record; yet the decree commences, (page 57.) "This day this cause came on to be heard, upon the bill,"&c. It is decreed that the mistake be corrected, within *one day* and that in case of default, that Blakeley, as a Commissioner, make it, and "that the said deed when made and delivered as aforesaid, take effect, and be in force as the act and deed of the Defendants, *nunc pro tunc*, as from the 27th day of February, A. D., 1849, the date of the original deed."

He next offered a deed from Blakely, as a Commissioner in Chancery, to Plaintiff below, reciting all the foregoing proceedings and the default of Gendron and wife, to make the deed. [Page 59.]

Defendant below objected to the introduction of said record, decree and deed, but the objection was overruled by the Court.

Plaintiff below here rested, and Defendant introduced:

1st: A certificate of the register of the Land Office at Quincy, setting forth that Defendant Ballance had on the 28th day of July, 1832, established a right of pre-emption to the south-west quarter of section 9, T. 8 N. R, 8 E of the 4th principal meridian, [page 63.]

2nd: A certificate of entry of the same land, which is as follows:

"United States Land Office,
Quincy, Ill., 27 November, 1837.

I do hereby certify that Charles Ballanee, of Peoria County, in the State of Illinois, did this day enter or purchase at this office,

the southwest fractional quarter of fractional section No. 9, in township No. 8, north of range No. 8, east of the fourth principal meridian, containing one hundred and forty seven and $\frac{43}{100}$ acres. Certificate No. 13,293, as appears of record in this office.

SAMUEL LEECH, Register.

Filed April 6th, A. D. 1854, and recorded in book G A, page 142. JACOB GALE, Recorder Peoria Co.

(page 63,)

3d. A Receipt signed by the Receiver of public monies at Quincy, showing the payment of the money for said land, to said officer, on the 27th Nov., 1837. (page 64.)

4th. A patent to Charles Ballance, dated Jan. 24th, 1838, for the same land. This patent is precisely like all others except that in the habendum, as in the Bogardus patent, in the case of Bryan & Rouse *vs.* Forsyth, were interlined the following words, "subject however, to the right of any and all persons claiming under the act of Congress, of 3d March, 1823, entitled 'An Act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.'" [page 64.]

5th. A record showing that, by reason that the taxes had not been paid on said quarter section of land, for the year 1845, a judgment was obtained against the land, for said taxes, in the Peoria Circuit Court, at the May term thereof, in the year 1846, and that on said judgment a process was issued, and a portion of said land, including the lot in controversy, was sold by the sheriff of said county, and bought by defendant below, on the 16th day of June, 1846. [page 65.]

6th. A deed from said sheriff which recites said judgment and sale, and then proceeds, "Now therefore, I, Smith Frye, late sheriff as aforesaid, for and in consideration of the said sum of money, to me in hand paid, by the said Charles Ballance, at the time of the aforesaid sale, and by virtue of the statute in such case made and provided, have granted, bargained and sold," &c., "said land to said Ballance." [page 69.]

7th. A deed from Gendron and wife and others to Seth Converse, dated October 24th, 1839, for the lot now in dispute. (page 70.)

8th. A deed, dated May 2d, 1838; from Latour and wife, and Gendron and wife to Narcisse Pençoneau and Samuel B. Chandler for three-fourths of the lot in dispute. (Page 72.)

In addition to the large amount of evidence to prove and disprove the heirship of Mary Gendron, Defendant below, to show his possession under the Statute of Limitation, proved,

1st. By Aquila Moffat, that he had resided in and about Peoria since 1830, and had been acquainted about there since 1822. He is acquainted with Charles Ballance, and has been acquainted with him since 1832. Knows of said Ballance being in possession of the southwest quarter of section nine, in township eight north, of range eight east, of the fourth principal meridian, in the summer of 1832, and he has cultivated a portion of it ever since. He has had forty acres of it under cultivation for years, for ten years at least. When he first knew said Ballance he was a single man. In 1834 he kept house with a sister, in a yellow framed house, near the Illinois River, on another fraction of the same section, and lived there until he moved to where he now lives, which is about ten or twelve years since. His present residence is on the southwest quarter of section nine, in same township. When he first came to Peoria, the remains of the old French improvements were very plainly to be seen. Some of the French houses were further down the river than Ballance's Avenue. (Page 75.)

2d. He proved, by Almiron S. Cole, that he had known said Ballance for 17 or 18 years. When he first knew said Ballance he resided near the site of old Fort Clark, in the town of Peoria. He resided there until 1844, when he removed to where he now lives, on the southwest quarter of said section. He knows that said Ballance cultivated a portion of said quarter section every year from the time the witness came to the country, to the present time; and previous to 1844, he built a house on said

southwest quarter, in which he now resides. Under a ten year's lease from said Ballance, with privilege of renewal, witness enclosed the ground designated as lot three, in block forty-seven, of Ballance's Addition to Peoria, and put a distillery and other improvements on it, which he afterwards sold to Sylvanus Thompson. It is now occupied by Richard Gregg, the son-in-law and administrator of said Thompson. He also enclosed under another lease, a lot on the lower side of the above, extending from the railroad in Water street, to the river, and including a part of blocks sixty-seven and sixty-eight. (Page 76.)

The following instructions were asked by defendant below, to be given to the jury, but refused by the court, to wit:

1st. That the patent introduced in evidence by the defendant conveyed a complete, indefeasible estate in fee-simple, to said Ballance, provided, the United States then had such title, in said premises; at any rate, it conveyed all the estate the United States then had.

2d. That whatever estate the representatives of Simon Roi may have had to the premises in controversy, by virtue of the act of 3d March, 1823, and the survey of 1st September, 1840, made in pursuance of it, they have no title to said premises, by virtue of the patent to the legal representatives of said Simon Roi.

3d. That said act of 1823, and survey of 1840, did not vest said title in the legal representatives of said Antoine Roi, upon his death, because the grant is made to *him*, not to *him and his heirs*.

4th. That if any persons could inherit said land under them, it was the heirs of said Mrs. LeDoux, who became the wife of said Roi.

5th. That said defendant is in the situation to plead the statute of limitation, both of twenty years, and of seven years, against said plaintiff; and that if the jury believe from the evidence that said Ballance, or those holding under him, have been

in possession, by inclosing, building on, and occupying it more than seven years, under the title the defendant has exhibited, then the plaintiff cannot recover in this action.

6th. That to be able to avail himself of the statute of limitation of 1835, it was not requisite that his dwelling house should be upon the identical spot sued for. It is sufficient if they believe he lived in the immediate vicinity, and occupied the spot in controversy as a distillery, malt-house, and place of business.

7th. That the tax title, introduced by defendant is a complete bar to the plaintiff's action, it being a divestiture of whatever title he may have had.

8th. That whether said tax title be good as a paramount title or not, it is title enough to base the statute of limitations on, and therefore, if they believe from the evidence that said Ballance, by his tenants, had such title as is above described, for more than seven years, under said purchase, said plaintiff cannot recover, in this action.

9th. That it is not sufficient that the jury shall believe from the evidence that Antoine Roi married the mother of Mary Gendron and raised her, and adopted her, as his daughter. The jury must also believe, from the evidence, that said Mary was begotten by said Antoine.

10th. That if the jury shall believe, from the evidence, that said Mary was more probably begotten by said Louis Roi, than by said Antoine Roi, the plaintiff is not entitled to recover in this action.

11th. That if the jury believe from the evidence that the probabilities are as great that said Mary Gendron was begotten by Louis Roi or some other person, as that she was begotten by said Antoine Roi, the plaintiff is not entitled to recover.

12th. That if the jury believe from the evidence, that the ground sued for, in this action, is not the ground claimed before the register of the land office at Edwardsville, in 1820, and

which was reported by Coles, the register of said office, to the secretary of the Treasury of the United States, as lot No. 29, the plaintiff is not entitled to recover.

13th. That so far as this controversy is concerned, the clause in defendant's patent "subject to the rights," &c., is without any effect whatever. That the rights of these parties are precisely the same as if said clause was not there.

14th. That if the jury believe from the evidence, that Mary Gendron was born in Missouri, and that her mother intermarried with Antoine Roi, and that he acknowledged her as his daughter, until his death, which happened in Missouri, before the State of Illinois was admitted into the Union, the plaintiff cannot recover in this action, because there was no law in Illinois enabling the illegitimate child to inherit from its father, by reason of his intermarriage with the mother, and acknowledging such child. It being a rule of the common law that the law of the place where land lies, governs the descent of land, and not the law of the place where the parties live.

15th. That the burthen of proof is on the plaintiff, and unless he has clearly made out his case, he cannot succeed in this suit. He cannot rely upon the weakness of the defendant's title.

The court gave to the jury the following instructions, though objected to by the defendant.

1st. That the acts of 1820 and 1823, taken in connection with the report of the register of the land office at Edwardsville, the survey of the Surveyor General, and the patent, vested the legal title to the lot in the legal representatives of Simon Roi, that until the lot was surveyed, and the survey approved as required by the statute, the claimant could not know the boundries and extent of the lot, and until that time there could be no adverse possession, under any of the statutes of limitations.

2d. That the plaintiff claiming through Mary Gendron, the jury must be satisfied that she was the sole surviving heir of

Simon Roi (the court explaining to the jury the rule of descents) it was a question of fact for them. If she was the daughter of Antoine Roi, born before his marriage with her mother, and after her birth, her father and mother were married in Missouri, at the time mentioned, such marriage of her father and mother in Missouri, rendered the child legitimate, and being legitimate by law in Missouri, she was capable of inheriting lands in Illinois, as the legal representative of her father or her uncle.

3d. If there were children of Simon Roi, living at his death, or their descendants, or if there were other children of Antoine Roi besides Mary, then if such children or their descendants, had been absent from their places of residence, and nothing had been heard of them, by their friends or acquaintances, for seven years or more, then they might be presumed to be dead.

4th. That the jury must find, from the evidence, that the title by mesne conveyances has become vested in the plaintiff, in order to authorize a virdict in his favor,

5th. The plaintiff must recover, if at all, on the strength of his own title.

6th. If Antoine Roi acknowledged Mary Gendron, as his child, before, at, and after his marriage, with her mother, and presented her as such to receive baptism, these are strong circumstances tending to prove she was his child.

7th. Whoever may be the parties to the deed to Seth Converse, of Oct. 24, 1839, it did not take effect as to parties claiming through the same grantors, until it was filed for record, unless the persons claiming by subsequent deed, had notice at the time of their deed, or filing of the same for record, of such prior deed. And the court was besides of opinion that the acknowledgement, in the deed of Oct. 24, 1839, was not sufficient under our law, to pass the inheritance of the wife.

8th. The Supreme Court of the United States have lately decided that such a title as that shown by the defendant, in this cause, that is the patent to Ballance was the kind of title re-

quired by the statute of limitations, but there is a saving in the statute for married women.

9th. The court was of opinion that the tax title set up in defence was not an absolute title, from various facts, which appear in evidence, and which were not disputed, among others, because it appeared that lot 29 was assessed as a part of the $105\frac{63}{100}$ acres, and that there were different owners to different parts of the whole tract assessed: the court saying to the jury, while leaving the facts to them, that if from the 1st of September, 1840, until the assessment was made under which the tax sale took place, the person or persons who owned lot 29, under the acts of Congress, did not own, and had no interest in any of the remaining portion of the $105\frac{63}{100}$ acres, which were assessed together, then the act of assessing that quantity all together was illegal, and was in effect compelling one man to pay taxes on the land of another. The lot 29 was granted under the authority of an act of Congress, and the officers of the State had no power under any law in force to ignore these rights of property thus granted.

10th. If there has been possession of the land under claim and color of title, made in good faith, by the defendant, for seven years before suit was brought and the taxes tor that time have been paid by the defendant, or by Ballance, then the plaintiff is not entitled to recover, but the deed given in evidence under the tax sale was not made until 1850.

11th. Unless the jury believe from the evidence that Mary Gendron was the laughter of Antoine Roi, the plaintiff cannot recover.

12th. Under the act of 1835, it is not pretended that it is absolutely necessary that the dwelling house should be on the property in dispute, but the residence must be connected with it in some way, and it was for the jury to determine whether the sub-division of the land into lots and out lots, by Ballance, in 1846, and the other facts detailed in evidence, constituted a severance of possession. The mere fact of such sub-division

did not, of itself, create a severance of the possession, but it might be considered by the jury in connection with oter facts.

To show that this judgment was clearly wrong, I submit to the court the following considerations.

1st. The act of 1823 was passed for the benefit of a certain class, to wit: those who lived in Peoria when the village was burned in 1812, and suffered by that conflagration. But Simon Roi did not belong to that class. He left there in "1808 or 1809." (3 Am. St. papers.)

2d. This lot belonged not to Roi, but, if to any one, to Mr. Le Doux or his wife, or if the claim possessed a descendible quality to his heirs—Charles Le Doux (not Simon Roi) made the improvement, nor did Roi pretend to claim it in his own right.

3d. The deed on page 37 (printed record) from Gendron and wife to Kinney conveys nothing. I suppose the meaning was to make good a former defective deed, to three-fourths of the property, but it does not for certainty refer to the former deed, that we may see what three-fourths is intended. Was an undivided three-fourths intended, or some particular part in severality.

4. The proceedings at law against Rankin and Lindsay were void, because a judgment was given without a jury. This might have been done if the suit had been on the note for money only, (Rev. Laws of 1845, p. 415, sec. 15) but the declaration contains counts for the price of land, goods, wares, merchandise, money loaned, &c. (Records page 42.)

5th. Said decree of the Peoria Circuit Court (page 48 and post) is void, because no summons in Chancery appears to have been served on the Defendants, nor did they enter their appearance; and because it was not competent for the Court to enter a decree *nunc pro tunc* in such a way as to effect intervening incumbrances.

6th. The patent to the legal representations of Simon Roi is

void, and ought not to have been given in evidence, because before its date, the United States had parted with all title to the premises, and therefore had no power to make a grant. They had parted with all title at the date of the act of 1823, provided the description was such that from it the land could be identified and surveyed for that law contains the word grant *in presenti*. Or if the description is such that from it the land could not be identified and surveyed, the title became perfect upon the approval of the survey—Bryan & Rouse *vs.* Forsyth, 19 How. If the govenment could by patent change the rights of parties, or fix a new date from which the statute of limitations should commence running, after the Plaintiff was barred, counting from the date of the law, or from the date of the survey, as the case might be, they can do the same thing by granting another patent now or a hundred years hence. But there is another reason why this patent is void. It is not to Simon Roi, but to his legal representatives, whereas the grant in the act is "to each of the French and Canadian inhabitants, and other settlers in the village of Peoria." Not a word is said about heirs of legal representatives, but the grant in the patent is "to the legal representatives of the said Simon Roi and to their heirs and assigns forever."

7th. What ever the Surveyor may have done, or whatever the patent may say, Roi was entitled to no other ground than "the lot so settled upon and improved." These are the words of the law, and there is no getting around them. But by the proof the land sued for, although the same that Brown surveyed for him is not the same he claimed as having been settled upon and improved by Le Doux, and afterwards lived on by him. This will appear plain by comparing the depositions of Braily and Moffatt. The former locates this French claim as laid off by Brown, and places it above a certain place known as Ballance's avenue, and the latter shows that some of the French claims extended below that place, and consequently as this is the lowest except one, the ground claimed was necessarily other than the ground sued on. These were donations without any legal obligation to enforce them, and so long as the government owned the lands in that vicinity, any change in their location

might be made, but as soon as the government had passed with the remaining title, no change could be made without the consent of this new party. Menard *vs.* Massey, 8 How. 308-313. Hall *vs.* Papin decided at last term.

8th. The Statute of Limitations of twenty years was a bar to this action, because in this case, the Plaintiff's title was as perfect in 1823, as it ever was, the description being so definite that no survey was necessary, and if it had been, plaintiff's right is founded on the assumption of prior possession, and prior possession is title enough to maintain an action of ejectment upon. Inerarity *vs.* Mimms, 2 Ala. to 68. Mimms, heirs *vs.* Higgins, ib. 677. Hallet & Walker *vs.* Forest, 8 Ala. 264. Eslava *vs.* Farmer's heirs, 7 Ala. 559—6 Peters 738. Jackson *vs.* Catlin, 2 John. 263. Sands *vs.* Perkins, 12 Mo. 256.

9. The Statute of Limitations of 1835, of seven years possession, under a title from the United States, was a complete bar to this action, Bryan & Rouse *vs.* Forsyth, 19 How. 334. Williams *vs.* Ballance, 23 Ill. 193. Meehan, *et al vs.* Forsyth, and Gregg *et al vs.* Forsyth, decided last term.

10th. The 9th instruction given to the jury is wrong, and the reasons to sustain it are fallacious. The Court assumes that the Assessor had no right to assess a quarter section of land as a whole tract, if it happened to include a half acre lot that some other person claimed, but of whose claim the Assessor had no official or other notice. What a doctrine is this? Our Auditor is required every year to get from the different registers of land offices, an official statement of all the lands that have been so long entered that they are taxable. This list is obtained from the Auditor by the clerk, and by him furnished to the Assessor; and by it the latter is governed in making out his assessment. (Rev. Laws of 1845, p. 438, sec. 11, 12, 13 and 14.) If John Doe enters a section of land as one tract, it is assessed to him as one tract, until some one buys a portion of it and lists it with the Assessor as his property; after which that portion is assessed to him, and the residue to John Doe, until another sale takes place. Am I to be told that the sale would be void because one acre that had been sold to Richard Roe, of which the

Assessor had no knowledge, was assessed as part of the section. Here it should be borne in mind that all the proceedings with regard to these French claims were had at Edwardsville, one hundred and fifty miles from Peoria, and out of the land district in which Peoria is situated; and that there never has been, up to the present time, any official information of their existence in this land district. If any man claimed this French claim it was his business to list it with the Assessor, as his property, and from that day forward it would have been listed as his property, and not as mine. But whether this is a good or bad tax title is a question for the State Courts of Illinois, and the highest Court in that State has adjudicated upon this very one, and sustained it. (Ballance *vs.* Rankin, 12 Ill. 420.)

11th. If I understand his Honor, who decided this case, he tells the jury that I cannot avail myself of this tax title, because although more than seven years had transpired since the sale, seven years had not expired between the date of the Sheriff's deed and the commencement of the suit. Two things seem to have been forgotten by his Honor: 1st, that a Sheriff's deed being executed, relates back to the day of sale, (Ferguson *vs.* Milles, 3 Gill. 358) and authorities there cited; and 2ndly, it is not," &c., necessary that the Sheriff's deed should have been made at all. With the Sheriff's deed it was a title at law, without it, it was an equitable title, but an equitable title is sufficient under the law of 1835. Rev. Laws of 1845, p. 349.

12th. But the great question in this case, and the one that would be conclusive of it, were there no other questions in the case, is presented by the second instruction given to the jury, which is in substance that in the descent of real estate the law of the domicil, and not that of the place where the land lies shall govern. This, with due deference to the Honorable Court, who so decided, is not law any where. It certainly is not law in any place where the common law prevails. The law on this subject, was thoroughly examined, and conclusively settled in the celebrated case of Birthwhistle *vs* Vardell. In this case, Birthwhistle, in 1823, filed his bill in Chancery against Vandell, for lands in England, and " Lord Eldon directed an action of

ejectment to be brought in the Court of Kings Bench, and pressed upon the parties the importance" "that a special verdict should be taken, accordingly the action was brought by the Plaintiff against the Defendant, in error, and a special verdict taken. It was submitted to a jury at the Yorkshire spring assizes in 1825." 5 Barn. & Cress. 438.

The case was argued, and judgment given for the Defendant in the Court of Kings Bench, in 1825. A writ of error was then brought in Parliament, and the Judges attending upon summons, the case was argued by Lord Brougham and Dr. Lushington for Plaintiff in error, and by the Attorney-General and Courtney for the Defendant in error. 9 Bligh, 34.

Afterwards, "on the 10th of June, 1830, the Lord Chief Baron (Sir W. Alexander) delivered the opinion of the judges, that the law of the domicil should govern, same book, page 45. This opinion he says is the opinion of all the judges." Page 54.

The case was postponed, and further questions proposed, which were answered July 11th, 1830. Page 55.

The case was then adjourned. At the close of the session of 1834, the case was called up, and Lord Brougham made a long argument in favor of his old client. Page 71. After he was through, to oblige him, the case was "ordered to be further argued before the judges, next session, by one counsel on each side." Page 88.

After this question had occupied the attention of the bar and bench of England and Scotland for twelve years, the highest authority to which the subject can appeal in England, decided as above stated, and what gives the decision peculiar force is, that Mr. Brougham, one of England's greatest lawyers, presented the claim before the ordinary courts, and when it was carried to the House of Lords, he was there ready to advocate his old client, and he was guilty of the indelicacy of coming down from his woolsack to persuade those, with whom he ought to have consulted. Story's Conflict, 138, sec. 93 n.

Supreme Court of the United States.

RICHARD GREGG, PLAINTIFF IN ERROR,

vs.

THE HEIRS OF WILLIAM P. BRYANT,
DEFENDANTS IN ERROR.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Argument of N. H. PURPLE, Attorney for Defendant in Error.

Supreme Court of the United States.

RICHARD GREGG, PLAINTIFF IN ERROR,

vs.

THE HEIRS OF WILLIAM P. BRYANT,
DEFENDANTS IN ERROR.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Argument of N. H. PURPLE, Atttorney for Defendant in Error.

The Plaintiff, in the Circuit Court, gave, in evidence in this cause, everything necessary to constitute a *prima facie* title:

The Act of Congress of May 15th, 1820: 1 Vol. Pub. Land Laws, 333.

The confirmatory Act of May 3rd. 1823: 1 Vol. Pub. Land Laws, 371.

The American State Papers: Vol. 3, pp. 426–7. Showing that Antoine Roi claimed lot 33 in the village of Peoria.

A general plat and survey of the French village of Peoria, and a special plat and survey of the lot in controversy duly certified.

A Patent from the United States to the legal representatives of Antoine Roi, dated 29th June, 1846.

Depositions clearly establishing the fact, that Mary Gendron was the only legal representative of Antoine Roi. *That*

she had been for more than twenty years a married woman, and still was, at the time of the trial.

Also, several deeds, title papers, judgments, executions, and other legal proceedings, shewing the title to the premises claimed to be clearly vested in defendants in error, derived from the said *Mary Gendron.*

The Defendant's evidence shows that Ballance, under whom the defendant claims, proved a pre-emption to the fractional quarter section on which the lot was situated, on the 12th of April, 1836: that he paid for the land on the 27th of November, 1837, and procured a certificate of the entry of the same, and that Ballance procured his Patent for the same on the 24th day of January, 1838, containing this saving or exception —"*Subject, however, to the right of any and all persons claiming under the Act of Congress, of March 3rd, 1823, entitled, 'An Act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.'*"

And this same proviso or exception is contained also in the application made by Ballance to enter the land, as is shown by the certificate of the Register of the Land Office given in evidence by the plaintiff, and dated the 27th of November, 1837, the day on which he paid for and entered the land.

The evidence does not show that Ballance, or those claiming under him, have been in possession of the lot in controversy for the period of seven years *next preceding the commencement of this suit by actual residence*, as will be hereafter more fully shown.

The evidence also shows that Mary Gendron, under whom the Plaintiff claimed title, was born in the then territory of Missouri, in the year A. D. 1815, and before the marriage of her father and mother, that they were married two or three months after her birth, that they both recognized and acknowledged her as the daughter of Antoine Roi, who married her mother as before stated, and that she was baptized as his daughter, and known and recognized as such by all her friends and acquaintances.

The defendant in the Circuit Court placed his defence upon five grounds:

First. That of elder and better legal title.

Second. That the evidence disclosed that there were other living heirs of Antoine Rio; or, that the plaintiff had failed to prove that Mary Gendron was the only heir.

Third. The Statutes of Limitations of the State of Illinois.

Fourth. That Mary Gendron, not being born in lawful wedlock, was illegitimate and incapable of inheriting her father's estate.

Fifth. His tax title.

The second proposition or objection being purely a question of fact to be settled by a jury, I shall not stop to discuss farther than to state, that there was scarcely any conflict in the testimony, and that the verdict was fully warranted by the evidence.

The first point, to-wit, that Ballance had the better or superior legal title is settled by the decision of this Court in the case of Bryan and others vs. Forsyth: 19 Howard, 334. It is there decided that when the survey has been made under the grant, which was in September, 1840, the Government and all other parties are concluded by the grant, and location thus established. To the same effect is the decision in the case of Ballance vs. Forsyth and others: 13 Howard, 22.

In this case, then, so soon as the survey was made and approved by the proper authorities, the legal title to the premises became vested in the legal representative of Antoine Roi; and the patent having issued to them, the Court will not, as decided in the last preceding case, in the absence of fraud, go behind the patent to inquire into the equities of the respective claimants. This is not a matter of any moment to the defendant below, because he holds his title subject to the claims and rights of the legal representatives of Antoine Roi.

Third. The Statutes of Limitations.

I am aware that in the case of Bryan and Rouse vs. Forsyth, before cited, this Court has decided that the patent to Bogardus, subject to these French claims, was such a title as might protect him under the statutes of limitations of this State.

It is not my purpose, now, to controvert that position as applicable to that case.

There are two statutes of limitations in this State, relating to actions to recover real estate. One was passed January 17th, 1835, and the other March 2nd. 1839.

Under the first, a party in possession of land by *actual residence thereon*, having a connected title in law or equity, deducible of record from this State or the United States, or from any officer authorized to sell such land on execution, and whose possession shall have been continued as aforesaid for seven years *next preceding* the time of the commencement of a suit or asserting a right of entry—may set up such title and residence as a bar to any such suit or entry.

In the second, one in actual possession, under claim and color of title made in good faith for seven successive years, and who, during all that time, pays all taxes legally assessed upon the said land, is adjudged to be the legal owner of said land according to the purport and to the extent of his paper title; and such person may set up such title, possession and payment of taxes as a bar to any suit brought against him for the recovery of such land.

Real Estate Statutes, Illinois, pages 424–7.

Both these laws contain exceptions in favor of minors, *femes covert*, and others. The first giving seven years, and the last three years from the time such disabilities ceased to exist, to commence suits or institute proceedings for the recovery of the land.

The conveyances made by Gendron and wife, under which the plaintiff claims title, were made for three-fourths on the

27th of February, 1849, and one-fourth on the 3rd of March, 1849; and this suit was commenced on the 12th of January, 1854, so that seven years had not elapsed between the times of such conveyances and the commencement of the suit.

Whatever may have been the evidence in the case of Bryan et al. vs. Forsyth, or the condition of the record, the evidence in this case affords no grounds for setting up either of the statutes as a bar to the plaintiff's claim.

It will be remembered that the evidence shows that the land, that is, the fractional quarter section, was laid out into town lots by Ballance in 1846.

At this time it had never been enclosed, or occupied, or possessed by *residence* thereon or otherwise, by any person, and until leased to Cole, as testified by him, it was vacant and unoccupied; that he first enclosed it, and that it has been used and occupied for distillery purposes ever since; and not for any purposes of residence. Now the defendant cannot avail himself of the benefit of the Act of 1835, aforesaid, because he has never resided upon the land at all.—Much less for "seven years next preceding the commencement of this suit." Neither has said land been possessed by actual residence thereon, by any person, for seven years next preceding the commencement of this suit.

The defendant below is equally unfortunate in attempting to comply with the law of 1839. Although it may appear that Ballance and his tenants have been in possession of the premises for more than saven years, yet he wholly fails to prove that he ever paid a tax upon the land or any part thereof in his life. It is not enough that it may appear that the taxes have been paid, it must be shown that the party who claims the benefit of the statute has himself done all that the statute requires, before he can avail himself of its protection.

The second section of the Act of 1839, as well as the first section of the said act, clearly indicate the intention of the Legislature in this respect.

Unless the defendant's counsel changes his position in this Court, he will only pretend to rely upon the Act of 1835.

In the Circuit Court he knew well that it would never do to submit either to a court or jury the question whether Mr. Ballance—an astute lawyer, and a gentleman whose eloquent and stirring appeals hold even this august tribunal in wrapt astonishment and admiration—entered into this land under "*claim and color of title made in good faith*," when his own application to enter the land is *subject* to the rights and claims of the legal representatives of Antoine Roi, and those claiming under them.

And if he falls back upon the law of 1835, he is again met with the undisputed proof that neither he nor any other person ever occupied the land by actual residence thereon; and also with the still stronger position that Mary Gendron, the representative of Roi, under whom the plaintiff below claims, was in 1849 when she conveyed, and had been for twenty years before, and ever since, a *feme covert*, against whom no statute of limitations could commence to run until she had parted with her title to the land. Considered in this light, it is wholly immaterial, so far as the rights of the defendant below are concerned, whether the instructions given by the court to the jury, upon the general principles of the statute of limitations, were technically right or not—as long as there was no evidence of actual residence upon the premises—or possession with payment of taxes, without residence; and conclusive evidence that as against the plaintiff below, the statutes could not run to defeat his claim, because his grantee was a *feme covert*. The court could not be called upon to instruct the jury upon abstract legal propositions, not warranted by the evidence; and if such instructions were asked and refused, the party asking them is in no manner prejudiced thereby.

How was this entry upon this land made by Ballance? Until 1845, he was living upon another quarter section. In 1837 he had applied to purchase the south-west fractional quarter, subject to the right and claim of the legal representatives of Antoine Roi. He was allowed to do so, and in 1838 he obtained his patent to the land, *subject* to the same right and

claim; and in 1845 or 1846 he entered upon the land under his purchase, "*subject*" to the claim of Antoine Roi. How can it be understood that such purchase and entry are *hostile* or *adverse* to the claim, or right to which they were subject?

All the evidence of Ballance's possession of, or residence upon the land, in this case is contained in the testimony of Aquilla Moffit and A. S. Cole.

The time when he took possession by residence upon the quarter section is indefinite.

Moffit says it was ten or twelve years ago, and Cole says it was in 1844.

If his residence is to be construed as extending over the whole tract, upon which there was no residence at the time of his entry, it is important to know whether he resided on the land at the time he leased to A. S. Cole, or whether possession by residence took place after such leasing.

If the land leased to Cole embraces the land in controversy, it is not proved that Ballance ever had possession of it by actual residence. Possesion merely without residence, and without payment of taxes, is no bar under the statute of limitations to the plaintiff's right to recover. Actual residence under title is indispensable.

Now, if Ballance leased this land to Cole before he commenced residing on it, and Cole went on under his lease and occupied it as the proof shews, for distillery purposes, not being a resident thereon himself, Ballance's subsequent entry upon the residue of the fraction would not make him a resident upon that part of the land, either actually or constructionally, which he had previously leased to Cole, and which Cole had only occupied for distillery purposes. The fact is, and the presumption of law in the absence of proof, is that Cole had possession when Ballance's residence commenced.

Again—it must be borne in mind that this residence required by the statute, to be effective must have continued for the period of seven years "*next preceding the commencement of the suit.*"

Now, although it is stated in Cole's testimony that he sold out to Thompson, and that Thompson took possession, that Gregg acted with Thompson up to the time of his decease, and that Gregg has occupied the land since the decease of Thompson, yet it is not shown by any evidence when Thompson died, nor in what capacity, whether as tenant of Ballance, or in his own right or claim, Gregg has since occupied the land; or whether such occupancy was by residence or otherwise. For anything appearing in this record, Gregg may have all the time up to the commencement of this suit have held the premises in his own right, or adversely to the claim or title of Ballance.

Without some proof, there is no presumption of law that Gregg was the tenant of Ballance.

The instruction given by the court upon this branch of the case was as favorable as could have been, or as was in fact asked by defendant below. From the evidence no court could have said to the jury that the facts proved by Ballance constituted actual residence upon the land seven years "*next preceding the commencement of this suit.*"

The court could do no less than leave it to the jury to say whether such defence had been made out.

IV. The fourth point made by the defendant in the court below, was, that the grantor of the plaintiff was illegitimate and incapable of inheriting real estate in law.

As before stated, she was born in Missouri Territory, in 1815, before the marriage of her father and mother. But they were married about two or three months after her birth, and the child was acknowledged and baptized as theirs.

The civil law was in full force in Missouri Territory at this time. Louisiana, which at the time of its purchase from France in 1803, embraced this district of country, had from its earliest settlement, both under French and Spanish rule, been subject in this respect to the doctrines and principles of the civil law This condition of things remained unchanged until the State of Missouri had adopted a constitution and was admitted into the Union as a State in 1821. And in all the Acts of Congress, passed in the interim for the government of any por-

tion of what was originally the Louisiana Territory, the laws then existing, upon the division and formation of other Territories, were continued in existence until altered or modified.

In 1804, Louisiana was erected into two Districts, with a provision that the laws in force should continue till altered or modified.

2 U. S. Stat. at large, 283–6, sec. 11.

In 1805, March 3rd, an Act was passed by Congress, providing for the government of Louisiana.

2 U. S. Stat. at large, 331–2, sec. 9.

In 1812, June 4, an Act was passed providing for the government of the Territory of Missouri.

2 U. S. Stat. at large, 743–7, sec. 16.

And in all cases the laws in force were continued and extended until altered by subsequent legislation, so that it will be seen that the civil law which legitimated children, born out of wedlock, was in force in Missouri Territory when Mary Gendron was born, and when her parents were married; and consequently she was legitimated by this law, and the intermarriage of her parents acknowledging that she was their child.

Cooper's Justinian, p. 192.
Code Napoleon, 92.
Civil Code, Louisiana, 33.

As to her legitimacy and consequent capacity of inheritance in Missouri Territory, where she was born, no doubt exists.

The remaining question upon this branch of the case is, whether being legitimated in one country, she can inherit lands in another.

With the single exception of the decisions in England, made under, or derived from, the canon and ecclesiastical laws of that country, I understand the law and rule to be almost, if not entirely, universal throughout the civilized world, that if, by the law of the country or state where a party is born, he is legitimate or becomes legitimated, he is so everywhere and for all purposes.

Scotland, France, Spain, Portugal, Germany, and most of the continental nations of Europe, hold this to be the law.

these presents do give and grant unto the said Charles Ballance and to his heirs, the said tract above described: To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said Charles Ballance, and to his heirs and assigns, forever, subject however to the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled "An Act to confirm certain claims to lots in the village of Peoria, in the State of Illinois."

In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed. Given under my hand, at [SEAL.] the City of Washington, the twenty-fourth day of January, in the year of our Lord one thousand eight hundred and thirty-eight, and of the independence of the United States the sixty-second.

By the President.

MARTIN VAN BUREN.
By A. VAN BUREN,
Secretary.
H. M. GARLAND,
Recorder of the General Land Office.

Recorded vol. 3, page 114.

State of Illinois, County of Peoria.

RECORDER'S OFFICE.

I, Charles Kettelle, recorder in and for said county of Peoria, do hereby certify the annexed patent from the United States to Charles Ballance for the S. W. sec. 9, 8 N. 8 E., is duly recorded in said office, in Book P. page 478, on this 25th day of September, A. D. 1845.

CHARLES KETTELLE,
R. P. Co.

3d. He, the defendant, read the depositions of A. M. Braley, Kettelle, Clark, and Samuel Dimon, which are as follows:

Be it remembered, that on the 18th day of August, A. D. 1854, at Peoria, County of Peoria, and State of Illinois, personally appeared before me, Judge of Tenth Judicial Circuit Court of the State of Illinois, Norman H. Purple, and made affidavit that he was one of the attorneys for the plaintiff, in a suit then depending in the Circuit Court of the United States for the District of Illinois, wherein Edward P. Tesson was plaintiff and Richard Gregg defendant, that the testimony of Samuel Dimon, Ralph Hamlin, Charles Kettelle, and A. Morton Braley, was material and necessary for the said plaintiff in the prosecution of said suit, and that each of the said witnesses

lived in the county of Peoria, more than one hundred miles from Chicago, where the court, at which the said plaintiff expected the said cause would be tried was appointed by law to be held, and that Richard Gregg, the said defendant, and Charles Ballance, Esq., his attorney, both resided at Peoria, in the State of Illinois, about one hundred and sixty miles from Chicago aforesaid, and I was requested in behalf of the said plaintiff, that the said witnesses might be examined, according to the directions of the act of Congress in such case made and provided:

Whereupon I ordered that the said witnesses should be examined *de bene esse* before me at the office of the clerk of the County Court Peoria County, at the court-house, in the city and county of Peoria, and State of Illinois, on the 2d day of September, A.D. 1854, at eight o'clock A.M. of said day; and that one day's notice should be given to the said defendant, or his said attorney, of such examination, to the end that he might, if he should see fit, be present at the examination and put interrogatories. And I, having satisfactory proof that such notice had been given, and as well the said plaintiff by his attorney as the said defendant by his attorney, C. Ballance, appearing before me at the office of the clerk of the County Court of Peoria County, at the court-house, in the city and county of Peoria, and State of Illinois, on this 2d day of September, A.D. 1854, at eight o'clock A.M. of said day; I have therefore proceeded with the said examination.

Kettelle's Deposition.

And the said Charles Kettelle, being first carefully examined, and cautioned, and duly sworn to testify the whole truth and nothing but the truth, saith: That he resides in the city of Peoria, is clerk of the County Court in and for said county. That he has been such clerk a little more than four years last past; that he is acquainted with the southwest fractional quarter of section nine in eight north, of range eight east, in Peoria county. That Charles Ballance was in possession of said tract of land from the year A.D. 1842, until the year A.D. 1846, when he laid out his addition to Peoria in said fractional quarter, and claimed to be the owner of said land during the whole of said time. That he has examined the books and records in his office, and can find no taxes due and unpaid against lots No. one, eight, seven, and six, in block sixty-seven, and lots three and four, in block forty-seven, in said Ballance's addition to Peoria. That the assessor's book returned and filed in the office of the county clerk of said county of Peoria, for the year A.D. 1843, shows that said tract of land is assessed to Charles Ballance (*i. e.*), the southwest fractional quarter above specified.

That he has examined the books and records of his office, and cannot find that French claims No. 33 and 29 (included in Ballance's

addition to Peoria) have ever been assessed or taxed as "French Claims," or by their boundaries, nor in any other manner, except as being included in the quarter section, and afterwards in lots in Ballance's addition, as laid off by him.

CHARLES KETTELLE.

And I do further certify that the preceding deposition was reduced to writing by me, and signed by the said Charles Kettelle in my presence, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

H. M. WEAD,
Judge of the 10th Judicial Circuit, Illinois.

Braley's Deposition.

And the said A. Morton Braley, being first carefully examined, and cautioned, and duly sworn to testify the whole truth and nothing but the truth, saith: That the plat hereto attached, marked "A.," and made a part of this deposition, and of his evidence, represents French claims 33 and 29, in the village of Peoria, laid down upon lots one, eight, seven, and six, in block No. sixty-seven, and on lot four in block forty-seven in Ballance's addition to Peoria. The French claims aforesaid being indicated by the *red* lines on the plat, and the lots aforesaid by the *black* lines.

That the said Braley is engineer and surveyor of the city of Peoria, and made the survey and plat aforesaid from the original survey of the French claims, approved by the surveyor-general of the States of Missouri and Illinois, and also from the record of Ballance's addition, as recorded in Peoria county, and that he made an actual measurement of the ground according to said survey; which measurement and survey was made in the month of May last.

That Richard Gregg, the defendant, has been in possession of said French claims, No. thirty-three and twenty-nine, since November, A.D. 1853.

A. MORTON BRALEY.

And I do further certify that the preceding deposition was reduced to writing by me, and signed by the said A. Morton Braley in my presence, and that I am not of counsel or attorney of the parties to the said suit, nor am I interested in the event thereof.

H. M. WEAD,
Judge of the 10th Judicial Circuit, Illinois.

Exhibit A.

(For plat marked Exhibit A., see page 161.)

Dimon's Deposition.

And the said Samuel Dimon being first carefully examined, and cautioned, and duly sworn to testify the whole truth and nothing but the truth, saith: That he was forty-three years old in May last, and that he resides in Peoria county; that he was assessor for said county in the year A.D. 1843, and in that year assessed the southeast and southwest quarters of section nine, in township eight north, of range eight east, in Peoria county, for that year, to Charles Ballance, at his request, and in the manner in which he requested him to make such assessment.

That he, said Ballance, claimed at that time to be the owner of said lands, and said land was listed and assessed to him at his request.

SAMUEL DIMON.

And I do further certify that the preceding deposition of Samuel Dimon was reduced to writing by me and signed by him in my presence, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

H. M. WEAD,
Judge 10th Judicial Circuit, Illinois.

4th. He gave in evidence a plat of Ballance's addition to Peoria.

(For plat, see page 163.)

I, George C. McFadden, county surveyor of the county of Peoria, and State of Illinois, do hereby certify that the within plat is a true survey of Ballance's addition to the town of Peoria, as surveyed and laid off by me on the southwest quarter of section 9, T. 8 N., R. 8. E., of the fourth principal meridian, at the instance of said Ballance, the proprietor thereof, on the 10th day of February, 1846.

All the streets, alleys, and blocks were by me accurately measured, and are of the dimensions specified on said plat. All the intersection of Walnut and Adams street, it being the easterly corner of block No. 41, I planted a stone, from which to make future surveys. At all the other corners of blocks I caused stakes to be driven down. Although the blocks are divided into lots of sixty feet each on the plat, no corresponding stakes were driven, it being deemed by the proprietor unnecessary.

Given under my hand at Peoria, this 10th day of February, 1846.

G. C. McFADDEN,
C. S. P. C.

Variation allowed in making the above survey, 7° 10′.

I, Charles Ballance, proprietor of the within addition to the town or city of Peoria, do hereby certify and acknowledge that the within

Northern District of Illinois, wherein Richard Gregg is plaintiff, and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Thomas Drummond, one of the justices of said court, this 2d day of August, 1859.

THOMAS DRUMMOND.

State of Illinois, City and County of Peoria, *ss.*

I, Lysander R. Webb, being a man of lawful age, and a resident of said city, do hereby solemnly swear that I did, on the 22d day of October, A.D. 1859, serve the above citation on Norman H. Purple in said city, by giving him a true copy thereof.

Witness my hand and seal, the date last aforesaid.

LYSANDER R. WEBB. [SEAL.]

State of Illinois, City of Peoria, *ss.*

I, Owen Donlevy, a notary public of said city, being duly qualified and acting as such, do hereby certify, that on the 22d day of October, 1859, the above-named Lysander R. Webb, who is personally known to me to be a credible person, and made oath to the truth of the foregoing affidavit, and subscribed his name thereto in my presence.

Witness my seal notarial and my signature, this 22d of October, 1859.

[L. S.]

OWEN DONLEVY,
N. P.

Indorsed: Filed October 24, 1859. Wm. H. Bradley, clerk.

Northern District of Illinois, *ss.*

William H. Bradley, clerk of the Circuit Court of the United States for the Northern District of Illinois, do hereby certify that the above and foregoing is a full, true, and complete transcript of the writ of error, bond, and citation, and proof of service indorsed thereon, filed in the cause wherein William P. Bryant was plaintiff, and Richard Gregg defendant, as the same appear of record from the originals thereof now remaining in my custody.

In testimony whereof I have hereunto set my hand, and affixed the seal of said court at office, in the city of Chicago, this eighth [SEAL.] day of November, eighteen hundred and fifty-nine, and of our independence the eighty-fourth year.

WM. H. BRADLEY,
Clerk.